

ATTACHMENT 18

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: PROCESSED EGG PRODUCTS :
ANTITRUST LITIGATION :
-----: MDL No. 2002
THIS DOCUMENT APPLIES TO: : 08-MD-02002
ALL ACTIONS :

-- HIGHLY CONFIDENTIAL --

Tuesday, June 25, 2013

Videotaped deposition of GENE W.
GREGORY, taken at the offices of Pepper
Hamilton LLP, 3000 Two Logan Square, 18th &
Arch Street, Philadelphia, Pennsylvania
19103, beginning at 9:12 a.m., before LINDA
ROSSI RIOS, RPR, CCR and Notary Public.

<p style="text-align: right;">2</p> <p>1 A P P E A R A N C E S :</p> <p>2</p> <p>3 QUINN EMANUEL URQUHART & SULLIVAN</p> <p>4 BY: STEIG D. OLSON, ESQUIRE</p> <p>5 and</p> <p>6 LEE TURNER-DODGE, ESQUIRE</p> <p>7 51 Madison Avenue, 22nd Floor</p> <p>8 New York, New York 10010</p> <p>9 212-849-7152</p> <p>10 212-849-7000</p> <p>11 steigolson@quinnemanuel.com</p> <p>12 leeturnerdodge@quinnemanuel.com</p> <p>13 On behalf of the Direct Purchaser</p> <p>14 Plaintiffs</p> <p>15</p> <p>16 MILBERG LLP</p> <p>17 BY: CHARLES SLIDDERS, ESQUIRE</p> <p>18 One Pennsylvania Plaza</p> <p>19 New York, New York 10119</p> <p>20 646-733-5727</p> <p>21 cslidders@milberg.com</p> <p>22 On behalf of the Indirect Purchaser</p> <p>23 Plaintiffs</p> <p>24</p> <p>25 HAUSFELD, LLP</p> <p>BY: JEANNINE M. KENNEY, ESQUIRE</p> <p>1604 Locust Street</p> <p>2nd Floor</p> <p>Philadelphia, Pennsylvania 19103</p> <p>215-985-3270</p> <p>jkenney@hausfeldllp.com</p> <p>On behalf of Direct Purchaser Plaintiffs</p> <p>JENNER & BLOCK, LLP</p> <p>BY: RICHARD P. CAMPBELL, ESQUIRE</p> <p>353 North Clark Street</p> <p>Chicago, Illinois 60654</p> <p>312-923-2818</p> <p>rcampbell@jenner.com</p> <p>On behalf of Kraft Foods Global, Inc.</p>	<p style="text-align: right;">4</p> <p>1 MARCUS & SHAPIRA LLP</p> <p>2 BY: MOIRA E. CAIN-MANNIX, ESQUIRE</p> <p>3 One Oxford Center</p> <p>4 35th Floor</p> <p>5 Pittsburgh, Pennsylvania 15219</p> <p>6 412-338-3344</p> <p>7 cain-mannix@macus-shapira.com</p> <p>8 On behalf of Giant Eagle, Inc.</p> <p>9</p> <p>10 GIBSON, DUNN & CRUTCHER LLP</p> <p>11 BY: JASON C. MCKENNEY, ESQUIRE</p> <p>12 2100 McKinney Avenue</p> <p>13 Dallas, Texas 75201-6912</p> <p>14 214-698-3279</p> <p>15 jmckenney@gibsondunn.com</p> <p>16 On behalf of Defendant,</p> <p>17 Cal-Maine Foods, Inc.</p> <p>18 PORTER, WRIGHT, MORRIS & ARTHUR</p> <p>19 BY: DONALD M. BARNES, ESQUIRE</p> <p>20 1919 Pennsylvania Avenue, NW</p> <p>21 Suite 500</p> <p>22 Washington, D.C. 20006</p> <p>23 202-778-3056</p> <p>24 dbarnes@porterwright.com</p> <p>25 On behalf of Rose Acre Farms</p> <p>KASOWITZ BENSON TORRES & FRIEDMAN, LLP</p> <p>BY: MARGARET ZIEMIANEK, ESQUIRE</p> <p>101 California Street</p> <p>San Francisco, California 94111</p> <p>415-655-4335</p> <p>mziemianek@kasowitz.com</p> <p>On behalf of Nu-Cal Foods, Inc.</p>
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<p>6</p> <p>1 LEONARD, STREET & DEINARD BY: WILLIAM L. GREENE, ESQUIRE 2 150 South Fifth Street Suite 2300 3 Minneapolis, Minnesota 55402 612-335-1568 4 william.greene@leonard.com On behalf of Defendant Michael Foods 5 6</p> <p>7 YODER KEATING MUETHING & KLEKAMP BY: JOSEPH M. CALLOW, JR., ESQUIRE One East Fourth Street 8 Cincinnati, Ohio 45202 513-579-6419 9 jccallow@kmlaw.com On behalf of Ohio Fresh 10 11</p> <p>12 DAVIS WRIGHT TREMAINE LLP BY: MARVIN L. GRAY, JR., ESQUIRE 1201 Third Avenue, Suite 2200 13 Seattle, Washington 98101 206-757-8054 14 montygray@dwt.com On behalf of Defendant, 15 National Food Corporation 16 17 CROWELL & MORING LLP BY: DOHA MEKKI, ESQUIRE 18 590 Madison Avenue 20th Floor 19 New York, New York 10022 212-803-4067 20 dmekki@crowell.com On behalf of Daybreak Foods, Inc. 21 22 23 24 25</p>	<p>8</p> <p>1 I N D E X 2 - - - 3 Testimony of: GENE W. GREGORY 4 By Mr. Olson 17 5 6 - - - 7 E X H I B I T S 8 - - - 9 EXHIBIT NUMBER DESCRIPTION PAGE MARKED 10 11 Gregory-1 Gene Gregory biography, UE0209507 57 12 Gregory-2 January 2007 Executive Committee Meeting, 13 UE0807907 - UE0807911 68 14 Gregory-3 4/11/05 E-mail, NL 001147 80 15 16 Gregory-4 3/7/05 Letter, UE0662322 109 17 Gregory-5 5/8/07 Statement of the United Egg Producers 18 Before the Subcommittee on Livestock, Dairy, 19 and Poultry Committee on Agriculture U.S. 20 House of Representatives, UE0567055 - UE0567060 112 21 22 Gregory-6 2/22/99 United Voices, UE0064537 - UE064539 128 23 Gregory-7 4/19/99 United Voices, UE0064509 - UE0064514 135 24 25</p>
<p>7</p> <p>1 LOVELL STEWART HALEBIAN & JACOBSON LLP BY: MERRICK SCOTT RAYLE, ESQUIRE 2 61 Broadway, Suite 501 New York, New York 10006 3 212-608-1900 msrayle@sbcglobal.net 4 On behalf the Indirect Purchaser Plaintiffs 5 6</p> <p>7 VERITEXT VIRTUAL APPEARANCES: 8 9 BAKER & MCKENZIE LLP BY: PATRICK J. AHERN, ESQUIRE 300 East Randolph Street 10 Chicago, Illinois 60601 312-861-3735 11 patrick.ahern@bakermckenzie.com On behalf of Winn-Dixie, Inc., 12 Roundy's Supermarkets, Inc., C&S Wholesaler Grocers, Inc., and 13 H.J. Heinz Company, L.P. 14 15 A L S O P R E S E N T : 16 BEN KEYSER, Videographer 17 18 19 20 21 22 23 24 25</p>	<p>9</p> <p>1 E X H I B I T S (cont'd.) 2 - - - 3 EXHIBIT NUMBER DESCRIPTION PAGE MARKED 4 5 Gregory-8 UEP Meeting Committee Las Vegas - April 27, 1999 Minutes, 6 UE0297497 145 7 Gregory-9 5/3/99 United Voices, CM00406453 - CM00406460 147 8 9 Gregory-10 UEP Marketing Committee Meeting Conference Call -- May 26, 1999 Minutes, 10 UE0220918 & UE0220919 152 11 Gregory-11 8/2/99 United Voices, UE0064456 - UE0064459 155 12 13 Gregory-12 6/7/99 United Voices, CM0405666 - CM0405673 156 14 Gregory-13 7/5/99 United Voices, CM0405660 - CM0405665 163 15 16 Gregory-14 UEP Marketing & Price Discovery Committee Conference Call 17 November 22, 1999 Minutes, 18 UE0297249 & UE0297250 174 19 Gregory-15 UEA Producer/Packer Division, 20 UE0168906 - UE0168910 179 21 Gregory-16 United Egg Producers 2000 Millennium Production Planning 22 Calendar, UE0202747 - UE0202774 189 23 Gregory-17 2/1/00 Letter, UE0065618 - UE0065621 190 24 25</p>

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<p>1 E X H I B I T S (cont'd.)</p> <p>2 - - -</p> <p>3 EXHIBIT NUMBER DESCRIPTION PAGE MARKED</p> <p>4</p> <p>5 Gregory-27 E-mail chain,</p> <p>6 UE0840235 - UE0840238 269</p> <p>7 Gregory-28 9/10/01 Letter,</p> <p>8 CM00182536 & CM00182537 281</p> <p>9</p> <p>10 Gregory-29 Special Called UEP</p> <p>11 Marketing Conference</p> <p>12 Call 9/24/01,</p> <p>13 UE0153457 & UE0153458 285</p> <p>14 Gregory-30 Producer Committee for</p> <p>15 Animal Welfare,</p> <p>16 November 14, 2001</p> <p>17 Chicago, Illinois</p> <p>18 Minutes,</p> <p>19 UE0174658 & UE0174659 290</p> <p>20</p> <p>21 Gregory-31 UEP's Management of</p> <p>22 UEA Further Processors,</p> <p>23 UE0200486 - UE0200491 295</p> <p>24</p> <p>25 Gregory-32 1/10 Fax,</p> <p>CM00239981 - CM00239993 306</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p>	<p>1</p> <p>2 - - -</p> <p>3 (It is hereby stipulated and</p> <p>4 agreed by and among counsel that</p> <p>5 sealing, filing and certification are</p> <p>6 waived; and that all objections,</p> <p>7 except as to the form of the question,</p> <p>8 will be reserved until the time of</p> <p>9 trial.)</p> <p>10 - - -</p> <p>11 VIDEOGRAPHER: My name is Ben</p> <p>12 Keyser of Veritext.</p> <p>13 Today's date is June 25, 2013,</p> <p>14 and the time is approximately</p> <p>15 9:12 a.m.</p> <p>16 This deposition is located at</p> <p>17 Pepper Hamilton, Two Logan Square,</p> <p>18 Philadelphia, Pennsylvania. The</p> <p>19 caption of this case is In Re:</p> <p>20 Processed Egg Products Antitrust</p> <p>21 Litigation in the United States</p> <p>22 District Court for the Eastern</p> <p>23 District of Pennsylvania. The name of</p> <p>24 our witness is Gene W. Gregory.</p> <p>25 At this time will the attorneys,</p>

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<p style="text-align: right;">14</p> <p>1</p> <p>2 please, identify themselves and the</p> <p>3 parties they represent, after which</p> <p>4 our court reporter, Linda Rossi of</p> <p>5 Veritext will swear in the witness and</p> <p>6 we can proceed.</p> <p>7 MR. OLSON: This is Steig Olson</p> <p>8 from Quinn Emanuel Urquhart & Sullivan</p> <p>9 for the Direct Purchaser Class</p> <p>10 Plaintiffs.</p> <p>11 MS. TURNER-DODGE: Lee</p> <p>12 Turner-Dodge, also from Quinn Emanuel,</p> <p>13 also for the Direct Purchasers.</p> <p>14 MR. CAMPBELL: Richard Campbell,</p> <p>15 Jenner & Block for the Kraft</p> <p>16 plaintiffs.</p> <p>17 MS. CAIN-MANNIX: Moira</p> <p>18 Cain-Mannix of Marcus & Shapira for</p> <p>19 plaintiff, Giant Eagle.</p> <p>20 MR. SLIDERS: Charles Slidders,</p> <p>21 of Milberg LLP for the Indirect</p> <p>22 Purchaser Plaintiffs.</p> <p>23 MS. ZIEMIANEK: Margaret</p> <p>24 Ziemianek, Kasowitz Benson Torres &</p> <p>25 Friedman for defendant, Nu-Cal Foods.</p>	<p style="text-align: right;">16</p> <p>1</p> <p>2 Pepper Hamilton of behalf UEP and</p> <p>3 USEM.</p> <p>4 MS. LEVINE: Jan Levine on</p> <p>5 behalf of UEP and USEM, Pepper</p> <p>6 Hamilton.</p> <p>7 MR. OLSON: Do the folks on the</p> <p>8 phone want to make appearances?</p> <p>9 MR. RAYLE: Merrick Rayle,</p> <p>10 Lovell Stewart, Indirect Purchaser</p> <p>11 Plaintiffs.</p> <p>12 MS. MEKKI: Doha Mekki, Crowell</p> <p>13 & Moring on behalf of Daybreak Foods,</p> <p>14 Inc.</p> <p>15 MR. CZECHOWSKI: Tom Czechowski</p> <p>16 on behalf of Weaver Brothers.</p> <p>17 MR. GREENE: William Greene on</p> <p>18 behalf of Michael Foods.</p> <p>19 MR. CALLOW: Joe Callow on</p> <p>20 behalf of Ohio Fresh Eggs.</p> <p>21 MR. GURSTELLE: Ben Gurstelle on</p> <p>22 behalf of Sparboe Farms, Inc.</p> <p>23 - - -</p> <p>24 GENE W. GREGORY, after having</p> <p>25 been first duly sworn, was examined</p>
<p style="text-align: right;">15</p> <p>1</p> <p>2 MS. LEVIN: Christine Levin of</p> <p>3 Dechert for RW Sauder.</p> <p>4 MR. HURLEY: Ryan Hurley, Faegre</p> <p>5 Baker Daniels for Midwest Poultry</p> <p>6 Services.</p> <p>7 MR. EIMER: Nate Eimer, Eimer</p> <p>8 Stahl on behalf of Moark and Norco.</p> <p>9 MS. SOUTHALL: Samantha Southall</p> <p>10 for Buchanan, Ingersoll & Rooney on</p> <p>11 behalf of Hillandale Farms, Inc.,</p> <p>12 Hillandale Farms East, Inc.,</p> <p>13 Hillandale Gettysburg LP and</p> <p>14 Hillandale Farms of Pa., Inc.</p> <p>15 MR. BARNES: Donald Barnes,</p> <p>16 Porter, Wright, Morris & Arthur for</p> <p>17 Rose Acre Farms.</p> <p>18 MR. McKENNEY: Jason McKenney</p> <p>19 from Gibson Dunn & Crutcher on behalf</p> <p>20 of Cal-Maine Foods.</p> <p>21 MS. REDDING: Whitney Redding</p> <p>22 for Pepper Hamilton on behalf of</p> <p>23 United Egg Producers and United States</p> <p>24 Egg Marketers.</p> <p>25 MS. SUMNER: Robin Sumner,</p>	<p style="text-align: right;">17</p> <p>1</p> <p>2 and testified as follows:</p> <p>3 - - -</p> <p>4 EXAMINATION</p> <p>5 - - -</p> <p>6 BY MR. OLSON:</p> <p>7 Q. Good morning, sir.</p> <p>8 A. Could I first ask a privilege,</p> <p>9 and that is that at my age, my hearing is not</p> <p>10 as good as I would like for it to be so when</p> <p>11 you ask me a question, could you speak loudly</p> <p>12 enough?</p> <p>13 Q. Absolutely. Could we begin by</p> <p>14 you stating your full name for the record?</p> <p>15 A. Gene Willard Gregory.</p> <p>16 Q. And where do you currently</p> <p>17 reside?</p> <p>18 A. Alpharetta, Georgia.</p> <p>19 Q. Are you currently employed?</p> <p>20 A. Yes.</p> <p>21 Q. By whom are you employed?</p> <p>22 A. United Egg Producers.</p> <p>23 Q. And what is your current</p> <p>24 position?</p> <p>25 A. I'm in -- I don't know that I</p>

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<p style="text-align: right;">18</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 have a position. I had -- I have -- I'm</p> <p>3 working in part time for them now, so I don't</p> <p>4 have a title now.</p> <p>5 Q. What type of work do you do?</p> <p>6 A. Well, I'm doing some member</p> <p>7 services work, calling on producers and</p> <p>8 writing stories about their farms. I am kind</p> <p>9 of the staff person that as all of these</p> <p>10 lawsuit Interrogatories or whatever, I don't</p> <p>11 know, what comes in, I'm the one that reviews</p> <p>12 those and tries to respond to them.</p> <p>13 Q. So you are helping work on this</p> <p>14 litigation for UEP. Is that right?</p> <p>15 A. Yes.</p> <p>16 Q. Are you compensated for that?</p> <p>17 A. No.</p> <p>18 Q. Are you compensated by UEP at</p> <p>19 all?</p> <p>20 A. Yes, I'm on salary.</p> <p>21 Q. So you're being paid a salary?</p> <p>22 A. Yes.</p> <p>23 Q. And the salary that you're</p> <p>24 being paid is for the work you're performing</p> <p>25 for UEP. Correct?</p>	<p style="text-align: right;">20</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 can't ever recall before.</p> <p>3 Q. In that case I'll go over just</p> <p>4 a couple ground rules.</p> <p>5 A. Okay.</p> <p>6 Q. First of all, I'm going to be</p> <p>7 asking you a series of questions, of course.</p> <p>8 I'm going to do my best to ask them loudly</p> <p>9 enough and to make them clear so that you</p> <p>10 understand them.</p> <p>11 A. Yes.</p> <p>12 Q. If I ever slip up in doing that</p> <p>13 and you didn't hear me or you are not clear</p> <p>14 about what I'm asking, I would just ask that</p> <p>15 you stop me and ask for a clarification. Is</p> <p>16 that fair?</p> <p>17 A. Appreciate that.</p> <p>18 Q. And you're doing a great job of</p> <p>19 this, but one thing I will mention is because</p> <p>20 we have Linda writing down everything we say,</p> <p>21 we should do our best not to speak over each</p> <p>22 other.</p> <p>23 A. Okay. Yes.</p> <p>24 Q. So if I ask a question and you</p> <p>25 answer it, I'll assume that you understood</p>
<p style="text-align: right;">19</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. And that includes the work for</p> <p>4 this litigation. Correct?</p> <p>5 A. It's not identified as that</p> <p>6 way, but I'm just employed as a part-time</p> <p>7 employee.</p> <p>8 Q. One of your responsibilities as</p> <p>9 a part-time employee is to help with this</p> <p>10 litigation. Correct?</p> <p>11 A. Yes.</p> <p>12 Q. And what is your salary?</p> <p>13 A. Embarrassingly I have to tell</p> <p>14 you that it's dropped to \$70,000 a year.</p> <p>15 Q. Now, you formerly served as the</p> <p>16 president of United Egg Producers. Correct?</p> <p>17 A. Say that again?</p> <p>18 Q. You were formerly the president</p> <p>19 of United Egg Producers?</p> <p>20 A. Yes, sir. Yes.</p> <p>21 Q. Before we discuss that, let me</p> <p>22 actually cover a couple of logistical issues.</p> <p>23 Have you been deposed before or</p> <p>24 is this your first time?</p> <p>25 A. This is the first time. I</p>	<p style="text-align: right;">21</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 the question. Is that fair?</p> <p>3 A. Yes.</p> <p>4 MS. LEVINE: Steig, this might</p> <p>5 be a good time just to put on the</p> <p>6 record that we've agreed to the normal</p> <p>7 stipulations as in Mr. Pope's</p> <p>8 depositions, only objections as to the</p> <p>9 form of the question and one objection</p> <p>10 is good for all -- for all in the room</p> <p>11 so that we don't have repeating</p> <p>12 objections.</p> <p>13 MR. OLSON: Okay.</p> <p>14 BY MR. OLSON:</p> <p>15 Q. Another thing I will mention</p> <p>16 is -- well, let me ask this: Did I</p> <p>17 understand that you had some sort of surgery</p> <p>18 recently?</p> <p>19 A. Yes, sir.</p> <p>20 Q. What was the surgery?</p> <p>21 A. They performed surgery from the</p> <p>22 C2 vertebra upward near the skull down</p> <p>23 through the seventh vertebra because by the</p> <p>24 time we got to this, according to them, I was</p> <p>25 nearly paralyzed. I couldn't function, I</p>

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<p style="text-align: right;">22</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 couldn't button my shirt, I couldn't -- you</p> <p>3 know, I was just in a mess. And so I had the</p> <p>4 surgery in November. Being naive about it, I</p> <p>5 thought I would come out and everything would</p> <p>6 be great, but the problem of it is I still</p> <p>7 suffer from tingling, particularly on my left</p> <p>8 side. I have days in which for unknown</p> <p>9 reasons things will happen, like I had one</p> <p>10 week when the right shoulder and arm and hand</p> <p>11 were just like terribly painful and like</p> <p>12 frozen. Then I've had other bouts of my legs</p> <p>13 and feet swelling to the point I couldn't get</p> <p>14 my shoes on. And I have, as I've tried to</p> <p>15 explain to other people, that I have</p> <p>16 mysteriously, I don't know why, I have cycles</p> <p>17 of good days, not that I'm not pain free, I</p> <p>18 don't mean that, but I have cycles of good</p> <p>19 days and then I have cycles of bad days. And</p> <p>20 all the doctors are able to tell me is that</p> <p>21 it may take as much as a year before the</p> <p>22 nerves are -- before all of this is recovered</p> <p>23 because the nerves are still trying to</p> <p>24 recover or repair themselves or whatever it</p> <p>25 is, I don't know what it is. So I -- that's</p>	<p style="text-align: right;">24</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 approximately February of 2007?</p> <p>3 A. That's right.</p> <p>4 Q. Why did you end your tenure as</p> <p>5 president of UEP? How did that happen?</p> <p>6 A. Why did I end it?</p> <p>7 Q. Yes.</p> <p>8 A. I was 72 in January of this</p> <p>9 year, and it had been my intention of</p> <p>10 retiring. In fact, I had given the board</p> <p>11 notice in January of 2012 that I would like</p> <p>12 to make a transition over this period of a</p> <p>13 year and that I would like to retire at the</p> <p>14 end of 2012. They then, I don't know -- they</p> <p>15 said that they'd like -- would like for me to</p> <p>16 stay on and be available, work on part-time</p> <p>17 projects and those kind of things. And I</p> <p>18 agreed to do so.</p> <p>19 Q. Who is the president of UEP</p> <p>20 today?</p> <p>21 A. It is my son, Chad Gregory.</p> <p>22 Q. Who are the members of UEP?</p> <p>23 A. They are egg farmers.</p> <p>24 Q. What is an egg farmer?</p> <p>25 MS. LEVINE: Object to any</p>
<p style="text-align: right;">23</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 the condition anyway.</p> <p>3 Q. Well, we appreciate you being</p> <p>4 here. We can take breaks whenever you want</p> <p>5 to. And we can take as many as you want to.</p> <p>6 So if you're ever --</p> <p>7 A. No, I'm fine.</p> <p>8 Q. If you're ever uncomfortable</p> <p>9 and want to stretch your legs or stand up,</p> <p>10 just let us know, we'll take a break.</p> <p>11 A. I appreciate that.</p> <p>12 Q. We generally try not to do that</p> <p>13 while there's a pending question, but</p> <p>14 otherwise --</p> <p>15 A. Appreciate that.</p> <p>16 Q. Otherwise we can do it. And --</p> <p>17 okay.</p> <p>18 Now, let's get back to your</p> <p>19 former position at UEP.</p> <p>20 A. Yes, sir.</p> <p>21 Q. Do I understand correctly that</p> <p>22 you were the president of UEP up until the</p> <p>23 end of 2012?</p> <p>24 A. Yes.</p> <p>25 Q. And you began in that position</p>	<p style="text-align: right;">25</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 conclusion as to a legal basis under</p> <p>3 the Capper-Volstead Act. Mr. Gregory</p> <p>4 certainly can respond on his</p> <p>5 knowledge.</p> <p>6 THE WITNESS: An egg farmer is</p> <p>7 someone that owns egg laying hens.</p> <p>8 BY MR. OLSON:</p> <p>9 Q. If someone owns one egg laying</p> <p>10 hen, are they an egg farmer?</p> <p>11 A. I would not think so, because</p> <p>12 that is not a commercial business.</p> <p>13 Q. So is there a line in your mind</p> <p>14 that distinguishes someone from being an egg</p> <p>15 farmer and not being an egg farmer?</p> <p>16 A. My -- no, there is not. If you</p> <p>17 have a commercial size egg farm, I consider</p> <p>18 you an egg farmer.</p> <p>19 Q. What is a commercial size egg</p> <p>20 farm?</p> <p>21 A. I think it varies based on --</p> <p>22 it can be a few thousand chickens to several</p> <p>23 million chickens.</p> <p>24 Q. So UEP is an association of egg</p> <p>25 producers. Is that right?</p>

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<p style="text-align: right;">26</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. No, we think we are a</p> <p>3 cooperative of egg producers.</p> <p>4 Q. What's the difference -- or</p> <p>5 strike that.</p> <p>6 Is there a difference in your</p> <p>7 mind between an association and a</p> <p>8 cooperative?</p> <p>9 A. I think in my opinion, both</p> <p>10 association and cooperative can do some of</p> <p>11 the similar things. There are some things</p> <p>12 that are restricted to what a cooperative can</p> <p>13 do.</p> <p>14 Q. And what are things that are</p> <p>15 restricted to what a cooperative could do?</p> <p>16 A. You know, I'm not a lawyer on</p> <p>17 this. I'm not, you know, altogether an</p> <p>18 expert on cooperatives, but...</p> <p>19 Q. To your understanding.</p> <p>20 A. To my understanding, that</p> <p>21 farmers can jointly market their products</p> <p>22 together; farmers can, through their</p> <p>23 cooperative they can share statistical</p> <p>24 information as to, you know, what the</p> <p>25 inventory is of and what the statistic -- you</p>	<p style="text-align: right;">28</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 would market the products for their farmers</p> <p>3 rather than the farmers individually doing</p> <p>4 their own marketing.</p> <p>5 Q. When you say the cooperative</p> <p>6 would market the product for the farmers,</p> <p>7 what does that mean?</p> <p>8 MS. LEVINE: Again, object to</p> <p>9 any legal conclusion. Mr. Gregory can</p> <p>10 testify to his own facts as the</p> <p>11 president of UEP.</p> <p>12 THE WITNESS: I think that as I</p> <p>13 understand, that the cooperative can</p> <p>14 be the marketing agent and actually</p> <p>15 sell the farmer's product to any</p> <p>16 variety of users of it.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. So the cooperative itself would</p> <p>19 collectively be the marketer, the seller of</p> <p>20 the eggs produced by the members of the</p> <p>21 cooperative. Is that right?</p> <p>22 MS. LEVINE: Object to the form</p> <p>23 of that question. It's a</p> <p>24 hypothetical. Mr. Gregory is not an</p> <p>25 expert on Capper-Volstead. Mr.</p>
<p style="text-align: right;">27</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 know, all the kind of statistical information</p> <p>3 that helps them to be better educated as to</p> <p>4 what the supply and demand conditions are.</p> <p>5 Those are just some quick things coming off</p> <p>6 the top of my head.</p> <p>7 Q. Those are things that a</p> <p>8 cooperative can do, is that what you're</p> <p>9 saying?</p> <p>10 A. That's what I believe they can</p> <p>11 do, yes.</p> <p>12 Q. And can an association do those</p> <p>13 things, to your understanding?</p> <p>14 A. I don't think that -- I believe</p> <p>15 that an association does not have the right</p> <p>16 to actually cooperative market products</p> <p>17 together or to actually share market</p> <p>18 information that way.</p> <p>19 Q. And when you say that members</p> <p>20 of a cooperative can jointly market products</p> <p>21 together, what do you mean by "jointly market</p> <p>22 products together"?</p> <p>23 A. I think when the Capper -- I</p> <p>24 think when intent of the Capper-Volstead</p> <p>25 cooperative was, that the cooperative itself</p>	<p style="text-align: right;">29</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Gregory can testify to the facts</p> <p>3 regarding UEP that he knows.</p> <p>4 THE WITNESS: Would you restate</p> <p>5 the question?</p> <p>6 BY MR. OLSON:</p> <p>7 Q. When you describe this concept</p> <p>8 of a cooperative jointly marketing products</p> <p>9 together, in your -- to your understanding,</p> <p>10 what you're describing is the cooperative</p> <p>11 would be the entity that goes out and sells</p> <p>12 the eggs produced by the members of the</p> <p>13 cooperative. Is that right? Is that your</p> <p>14 understanding?</p> <p>15 A. I think that that is a -- I'm</p> <p>16 not sure a cooperative has to do that, but a</p> <p>17 cooperative has the right within the</p> <p>18 Capper-Volstead to do that, I think.</p> <p>19 Q. Just to be clear --</p> <p>20 A. And I would like to -- I think</p> <p>21 there's -- there's a -- I have a different</p> <p>22 interpretation maybe. There is marketing and</p> <p>23 there are sales, and I think of them as</p> <p>24 completely different things.</p> <p>25 Q. I'm just trying to be clear on</p>

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<p style="text-align: right;">30</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 what you understand this concept of joint</p> <p>3 marketing to mean.</p> <p>4 A. Yes.</p> <p>5 Q. So if it's not selling, what</p> <p>6 does it mean?</p> <p>7 A. I think it is selling.</p> <p>8 Q. Is it more than selling? I</p> <p>9 thought you were drawing some distinction</p> <p>10 between selling and marketing.</p> <p>11 A. Well, I think of marketing as</p> <p>12 if you got a marketing department, you put</p> <p>13 together nice brochures, nice fliers, nice</p> <p>14 sales literature and all of those kind of</p> <p>15 things to point out the value of your company</p> <p>16 or your products, that kind of thing. Then</p> <p>17 you have a sales department that actually</p> <p>18 makes that sales call or whatever it is. So</p> <p>19 I distinguish the difference between</p> <p>20 marketing and sales.</p> <p>21 Q. How are decisions made at UEP?</p> <p>22 A. It's made by a Board of</p> <p>23 Directors.</p> <p>24 Q. Are decisions made also by</p> <p>25 committees?</p>	<p style="text-align: right;">32</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 MS. LEVINE: Object to the form</p> <p>4 of the question. It's compound.</p> <p>5 BY MR. OLSON:</p> <p>6 Q. And would it be fair to say</p> <p>7 that part of your job as president at UEP was</p> <p>8 to act on behalf of the UEP board and UEP</p> <p>9 members?</p> <p>10 A. Yes.</p> <p>11 Q. What is the UEP Marketing</p> <p>12 Committee?</p> <p>13 A. First of all, let me tell you</p> <p>14 it's not in existence now, but previously its</p> <p>15 role was to analyze the market conditions as</p> <p>16 it -- but primarily those market conditions</p> <p>17 were industry statistics, evaluate those</p> <p>18 statistics as to what the current conditions</p> <p>19 were as to inventory versus demand to try to</p> <p>20 project what those things were going to be</p> <p>21 like in the future and in some cases make</p> <p>22 recommendations to address what was or was</p> <p>23 foreseen to be a surplus situation.</p> <p>24 Q. Once the Marketing Committee</p> <p>25 made a recommendation to address a surplus</p>
<p style="text-align: right;">31</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. We do have committees. And</p> <p>3 those committees bring forth motions to the</p> <p>4 Board of Directors. The ultimate decision is</p> <p>5 made by the Board of Directors.</p> <p>6 Q. Are there formal rules that</p> <p>7 govern how committees operate at UEP?</p> <p>8 A. I don't think there are.</p> <p>9 Q. Are there formal rules that</p> <p>10 govern how the Board of Directors operates at</p> <p>11 UEP?</p> <p>12 A. We have bylaws, and we operate</p> <p>13 based upon those bylaws.</p> <p>14 Q. Anything in addition to the</p> <p>15 bylaws?</p> <p>16 A. I can't recall.</p> <p>17 Q. Would it be fair to say that</p> <p>18 the committees at UEP and the UEP board serve</p> <p>19 the interests of egg producers?</p> <p>20 A. Yes.</p> <p>21 Q. Now, once a committee or the</p> <p>22 board makes a -- made a decision while you</p> <p>23 were president, you as the president would</p> <p>24 support that decision and carry it out to the</p> <p>25 best of your ability. Correct?</p>	<p style="text-align: right;">33</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 situation, what was the process that would be</p> <p>3 followed?</p> <p>4 A. It would be -- it would be</p> <p>5 reported to the Board of Directors, but you</p> <p>6 see, this recommendation is not a motion.</p> <p>7 This recommendation is like an educational</p> <p>8 tool to our members as to what these are and</p> <p>9 the Marketing Committee is recommending that</p> <p>10 you can change that if you do certain things.</p> <p>11 So recommendations are different than a</p> <p>12 motion to the board.</p> <p>13 Q. Just to be clear, you said that</p> <p>14 if there was a recommendation made by the</p> <p>15 Marketing Committee about how to address a</p> <p>16 surplus situation, it would be reported to</p> <p>17 the Board of Directors. Correct?</p> <p>18 A. Yes. But what I'm trying to</p> <p>19 clarify for you, it did not -- that</p> <p>20 recommendation did not require board action</p> <p>21 because it was not a motion.</p> <p>22 Q. So what would happen after it</p> <p>23 would be reported to the Board of Directors?</p> <p>24 A. Again, I'm trying to be clear</p> <p>25 with you, even if it's reported to the Board</p>

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<p style="text-align: right;">34</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 of Directors, we're not asking the board for</p> <p>3 approval of it. The Marketing Committee has</p> <p>4 made a recommendation, it is not a motion to</p> <p>5 change anything. It is a recommendation to</p> <p>6 the membership so, therefore, it's just</p> <p>7 acknowledgment to the board, it's not asking</p> <p>8 the board for approval.</p> <p>9 Q. All right. So then let's talk</p> <p>10 about the idea of process, this idea of</p> <p>11 process. The Marketing Committee makes a</p> <p>12 recommendation to address a surplus</p> <p>13 situation. Would that occur by a vote?</p> <p>14 A. In the Marketing Committee,</p> <p>15 yes, it would.</p> <p>16 Q. And were there rules that</p> <p>17 governed how that vote would take place?</p> <p>18 A. It required a quorum. It</p> <p>19 restricted the vote to just Marketing</p> <p>20 Committee members. It -- other than that, I</p> <p>21 don't --</p> <p>22 Q. Would it pass by a majority or</p> <p>23 by some other measure?</p> <p>24 A. No, it had to pass by a</p> <p>25 majority.</p>	<p style="text-align: right;">36</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 There were times there was direct mailings to</p> <p>3 the members. So a variety of different ways.</p> <p>4 Q. You mentioned United Voices</p> <p>5 newsletter being reported at a meeting, to</p> <p>6 the people at the meeting. You've mentioned</p> <p>7 direct mailings. Were there other ways that</p> <p>8 these recommendations about surplus</p> <p>9 situations were communicated to members?</p> <p>10 A. I don't recall. If you have</p> <p>11 something that you believe it was done</p> <p>12 differently, I'd need to see that. So I just</p> <p>13 don't recall.</p> <p>14 Q. Now, we've been using the term</p> <p>15 "surplus situation." What does that refer</p> <p>16 to?</p> <p>17 A. The egg industry is kind of</p> <p>18 like most -- many farm commodities, is that</p> <p>19 you cannot -- it's not like manufacturing.</p> <p>20 You cannot produce exactly what the market</p> <p>21 needs, what the market is willing to purchase</p> <p>22 every day. It's -- and we live with normal</p> <p>23 surpluses throughout the period of time</p> <p>24 because that's just a function of business,</p> <p>25 that there are going to be times that there's</p>
<p style="text-align: right;">35</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. And these rules about the</p> <p>3 quorum and who could vote and the majority</p> <p>4 rule, were those written down anywhere or</p> <p>5 were those just practices?</p> <p>6 A. They're just practices.</p> <p>7 Q. All right. So once the</p> <p>8 Marketing Committee makes a recommendation to</p> <p>9 address a surplus situation, reported it to</p> <p>10 the board, how would that recommendation be</p> <p>11 communicated to the UEP membership?</p> <p>12 A. Well, most often it was</p> <p>13 communicated through our United Voices</p> <p>14 newsletter.</p> <p>15 Q. Were there other ways?</p> <p>16 A. Pardon?</p> <p>17 Q. Were there other ways?</p> <p>18 A. Yeah, it could have been</p> <p>19 reported at the meeting of the board or when</p> <p>20 the membership and the board were meeting, a</p> <p>21 motion from the -- a recommendation would</p> <p>22 come out of the Marketing Committee and it</p> <p>23 would be reported to the -- at that</p> <p>24 particular meeting to the members that were</p> <p>25 in attendance, again, through the newsletter.</p>	<p style="text-align: right;">37</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 going to be some surplus. There's going to</p> <p>3 be because of the fact that we have a -- we</p> <p>4 have cycles in this business, we have high</p> <p>5 demand periods and we have low demand</p> <p>6 periods, high demand periods like -- maybe</p> <p>7 I'm going on too long in this, but if you're</p> <p>8 interested, I'll tell you the story.</p> <p>9 Q. Let's just pause just to make</p> <p>10 sure we're being very clear. When you say a</p> <p>11 surplus, you're speaking of a surplus of</p> <p>12 eggs --</p> <p>13 A. Yes.</p> <p>14 Q. -- in the industry. Right?</p> <p>15 A. Yes.</p> <p>16 Q. And the problem with that from</p> <p>17 the perspective of UEP members is that drives</p> <p>18 down prices. Correct?</p> <p>19 A. Yes.</p> <p>20 MS. LEVINE: Object to the form</p> <p>21 of the question.</p> <p>22 THE WITNESS: Sorry.</p> <p>23 BY MR. OLSON:</p> <p>24 Q. And so the Marketing Committee</p> <p>25 would, when that occurred, make</p>

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<p style="text-align: right;">38</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 recommendations to better adjust supply to</p> <p>3 meet demand. Correct?</p> <p>4 MS. LEVINE: Object to the form</p> <p>5 of the question.</p> <p>6 THE WITNESS: Yes.</p> <p>7 MS. LEVINE: You can answer the</p> <p>8 question. Wait for Mr. Olson to ask</p> <p>9 the question, give me a chance to</p> <p>10 think and then you can answer the</p> <p>11 question, Mr. Gregory.</p> <p>12 BY MR. OLSON:</p> <p>13 Q. And there are references in the</p> <p>14 documents to things called supply management</p> <p>15 programs. Are you familiar with that term?</p> <p>16 A. Yes, I am.</p> <p>17 Q. And that's -- those programs</p> <p>18 are one of the things that the UEP Marketing</p> <p>19 Committee would implement to try to adjust</p> <p>20 supply to meet demand. Correct?</p> <p>21 MS. LEVINE: Object to the form</p> <p>22 of the question. Mr. Gregory can</p> <p>23 answer the question.</p> <p>24 THE WITNESS: Yes, the Marketing</p> <p>25 Committee looked at the supply side of</p>	<p style="text-align: right;">40</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 don't do it.</p> <p>3 MS. LEVINE: I would like to</p> <p>4 note for the record that I've made</p> <p>5 very few objections, Mr. Olson. If</p> <p>6 you continue to mischaracterize the</p> <p>7 witness, I will object. This is a</p> <p>8 fact witness, he is 72 years old and</p> <p>9 you don't have to change his</p> <p>10 testimony. He can speak for himself.</p> <p>11 BY MR. OLSON:</p> <p>12 Q. In some cases, Mr. Gregory, the</p> <p>13 UEP Marketing Committee would put together a</p> <p>14 program for reducing flock size in the</p> <p>15 industry. Correct?</p> <p>16 MS. LEVINE: Object to the form</p> <p>17 of the question. You can answer.</p> <p>18 THE WITNESS: This is the first</p> <p>19 time I've ever done this, so I don't</p> <p>20 know what I'm supposed to do.</p> <p>21 MS. LEVINE: You can answer the</p> <p>22 question.</p> <p>23 THE WITNESS: So I'm a little</p> <p>24 off balance here because I'd like to</p> <p>25 tell the story, but I don't know what</p>
<p style="text-align: right;">39</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 the business, and so we knew what the</p> <p>3 demand, you know, basically was and so</p> <p>4 we looked at are we producing an</p> <p>5 unnecessary surplus.</p> <p>6 BY MR. OLSON:</p> <p>7 Q. When you say "we," you mean the</p> <p>8 egg industry?</p> <p>9 A. Total.</p> <p>10 Q. And in some cases the UEP</p> <p>11 Marketing Committee would put together a</p> <p>12 program for reducing flock size in the</p> <p>13 industry. Correct?</p> <p>14 MS. LEVINE: Object to the form</p> <p>15 of the question. Mischaracterizes</p> <p>16 what Mr. Gregory said. He said</p> <p>17 recommendation.</p> <p>18 MR. OLSON: Counsel, that is</p> <p>19 completely inappropriate. Do not</p> <p>20 testify for the witness. Do not put</p> <p>21 words in the witness' mouth and don't</p> <p>22 coach the witness. I've been tolerant</p> <p>23 of your speaking objections which are</p> <p>24 improper, but that is way beyond the</p> <p>25 bounds and I would just ask that you</p>	<p style="text-align: right;">41</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 I can or cannot do.</p> <p>3 BY MR. OLSON:</p> <p>4 Q. I should have mentioned this at</p> <p>5 the outset. Your counsel is going to make</p> <p>6 objections today as you've seen. Those are</p> <p>7 for the record for use and evaluation by the</p> <p>8 court at a later date. They shouldn't affect</p> <p>9 your testimony. You should let her make them</p> <p>10 and give her an opportunity to make them, but</p> <p>11 you should answer all the questions to the</p> <p>12 best of your ability telling the full truth</p> <p>13 as you swore to do today.</p> <p>14 A. So her objection is just on the</p> <p>15 record, it doesn't mean that I can't answer.</p> <p>16 Is that what we're talking --</p> <p>17 MS. LEVINE: That's correct.</p> <p>18 MR. OLSON: Absolutely.</p> <p>19 MS. LEVINE: The only time you</p> <p>20 can't answer, if I instruct you not to</p> <p>21 answer. These are objections as to</p> <p>22 wording. You just should listen to</p> <p>23 the question and answer to the best of</p> <p>24 your ability.</p> <p>25 THE WITNESS: I'm sorry about</p>

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<p style="text-align: right;">42</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 this. I've never done this before.</p> <p>3 BY MR. OLSON:</p> <p>4 Q. Fair enough. Mr. Gregory, in</p> <p>5 some cases, the UEP Marketing Committee would</p> <p>6 put together a program for reducing flock</p> <p>7 size in the industry. Correct?</p> <p>8 MS. LEVINE: Object to the form</p> <p>9 of the question.</p> <p>10 THE WITNESS: Yes, they would.</p> <p>11 BY MR. OLSON:</p> <p>12 Q. And in some cases the UEP</p> <p>13 Marketing Committee would put together a</p> <p>14 program for reducing chick hatch in the</p> <p>15 industry. Correct?</p> <p>16 A. Yes.</p> <p>17 MS. LEVINE: Object to the form</p> <p>18 of the question.</p> <p>19 BY MR. OLSON:</p> <p>20 Q. Now, when we talk about a</p> <p>21 program to reduce flock size, that could</p> <p>22 occur through various means. Correct? There</p> <p>23 are various ways to reduce flock size?</p> <p>24 MS. LEVINE: Object to the form</p> <p>25 of the question.</p>	<p style="text-align: right;">44</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. And how does that occur?</p> <p>3 A. Again, the egg farmer has</p> <p>4 ordered baby chicks from a hatchery, and he</p> <p>5 may have done that several months in advance.</p> <p>6 So if we're looking down the road and we say,</p> <p>7 oh, my gosh, the flock size, laying flock</p> <p>8 size is going to be far more than what is</p> <p>9 needed, the recommendation may be then to</p> <p>10 reduce your purchase of baby chicks, reduce</p> <p>11 the hatch by a certain percent. And that</p> <p>12 would address long-term supply.</p> <p>13 Q. When you say reduce the hatch,</p> <p>14 that means reduce the purchase of baby</p> <p>15 chicks?</p> <p>16 A. Yes.</p> <p>17 Q. After one of these programs was</p> <p>18 communicated to UEP members, you and others</p> <p>19 at UEP would make efforts to see whether it</p> <p>20 was being followed. Correct?</p> <p>21 MS. LEVINE: Object to the form</p> <p>22 of the question.</p> <p>23 THE WITNESS: No.</p> <p>24 BY MR. OLSON:</p> <p>25 Q. You never tried to see if it</p>
<p style="text-align: right;">43</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 THE WITNESS: Other than</p> <p>3 disposing of the hens, I don't know of</p> <p>4 any other. I'm struggling with the</p> <p>5 question.</p> <p>6 BY MR. OLSON:</p> <p>7 Q. You know more than I do, so I</p> <p>8 might be wrong. When you say, "disposing of</p> <p>9 the hens," sometimes that -- sometimes that's</p> <p>10 referred to as an early slaughter?</p> <p>11 A. Yes, they're going to --</p> <p>12 there's a natural cycle of egg production,</p> <p>13 laying eggs and there's a date in which the</p> <p>14 farmer intends to sell his hens for profit.</p> <p>15 Anyway, what a recommendation might be is to</p> <p>16 move up that schedule and slaughter or</p> <p>17 whatever term you want to use, slaughter the</p> <p>18 hens two weeks early as an example.</p> <p>19 Q. Now, there's another way to</p> <p>20 reduce flock size to conduct an early molt?</p> <p>21 A. No, molt doesn't have anything</p> <p>22 to do with reducing the flock size.</p> <p>23 Q. Are there ways to reduce flock</p> <p>24 size by reducing hatch?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">45</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 was being followed?</p> <p>3 A. No. These are recommendations.</p> <p>4 These have no commitment. These have no</p> <p>5 penalties. There were times that I think</p> <p>6 that we had an interest in whether this was</p> <p>7 done, but it was not -- it was not our</p> <p>8 practice to follow up and see if anybody, any</p> <p>9 individual did anything.</p> <p>10 Q. Well, UEP was always interested</p> <p>11 in whether the recommendations were being</p> <p>12 followed. Correct?</p> <p>13 MS. LEVINE: Object to the form</p> <p>14 of the question.</p> <p>15 THE WITNESS: We would hope that</p> <p>16 the recommendation was followed.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. And whether or not the</p> <p>19 recommendation was followed could have a</p> <p>20 significant impact on how profitable the egg</p> <p>21 industry was. Correct?</p> <p>22 MS. LEVINE: Object to the form</p> <p>23 of the question.</p> <p>24 THE WITNESS: The intent of the</p> <p>25 recommendation was to bring supply in</p>

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<p style="text-align: right;">46</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 balance. And in doing so it should</p> <p>3 improve the price of eggs.</p> <p>4 BY MR. OLSON:</p> <p>5 Q. And so UEP had an interest in</p> <p>6 seeing whether the recommendation or the</p> <p>7 program actually was reducing the supply of</p> <p>8 eggs. Correct?</p> <p>9 MS. LEVINE: Object to the form</p> <p>10 of the question. Asked and answered</p> <p>11 several times.</p> <p>12 THE WITNESS: UEP had made a</p> <p>13 recommendation. As I said before, it</p> <p>14 was hopeful that some -- enough of the</p> <p>15 industry would follow that.</p> <p>16 BY MR. OLSON:</p> <p>17 Q. And you would follow various</p> <p>18 information sources to see whether it was</p> <p>19 being followed. Correct?</p> <p>20 MS. LEVINE: Object to the form</p> <p>21 of the question.</p> <p>22 THE WITNESS: Our only</p> <p>23 information source was USDA monthly</p> <p>24 hen inventories, but that did not tell</p> <p>25 us whether people were following our</p>	<p style="text-align: right;">48</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 witness can answer to his knowledge.</p> <p>3 THE WITNESS: That's not a</p> <p>4 regular occurrence, but, yes, it has</p> <p>5 happened.</p> <p>6 BY MR. OLSON:</p> <p>7 Q. And from time to time after</p> <p>8 that happened, you would communicate back to</p> <p>9 the membership as a whole what you had been</p> <p>10 told by members about whether the program was</p> <p>11 being followed. Correct?</p> <p>12 MS. LEVINE: Object to the form</p> <p>13 of the question. Calls for a</p> <p>14 hypothetical answer. If Mr. Gregory</p> <p>15 knows the answer, he can answer.</p> <p>16 THE WITNESS: Restate the</p> <p>17 question.</p> <p>18 BY MR. OLSON:</p> <p>19 Q. Sure. From time to time</p> <p>20 members would call you directly, tell you</p> <p>21 whether they were following the program, and</p> <p>22 from time to time you, through United Voices,</p> <p>23 for example, would report back to the</p> <p>24 membership what you had learned from members</p> <p>25 about whether they were following the</p>
<p style="text-align: right;">47</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 recommendation or just natural things</p> <p>3 were occurring. There was no way of</p> <p>4 knowing that.</p> <p>5 BY MR. OLSON:</p> <p>6 Q. You also had information</p> <p>7 sources that were UEP members. Right?</p> <p>8 A. They could be.</p> <p>9 Q. And UEP members could tell you</p> <p>10 directly whether they are following the</p> <p>11 program. Correct?</p> <p>12 MS. LEVINE: Object to the form</p> <p>13 of the question. Hypothetical</p> <p>14 question.</p> <p>15 THE WITNESS: They could do so.</p> <p>16 BY MR. OLSON:</p> <p>17 Q. And they did that from time to</p> <p>18 time. Correct?</p> <p>19 A. Yes.</p> <p>20 Q. UEP members would call you from</p> <p>21 time to time personally on the phone and tell</p> <p>22 you whether they were following the program.</p> <p>23 Correct?</p> <p>24 MS. LEVINE: Object to the form</p> <p>25 of the question. Hypothetical. The</p>	<p style="text-align: right;">49</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 program. Correct?</p> <p>3 A. Yes.</p> <p>4 Q. Now, you mentioned that the UEP</p> <p>5 Marketing Committee is no longer in</p> <p>6 existence. Do you recall that?</p> <p>7 A. I did say that.</p> <p>8 Q. And when did it stop being in</p> <p>9 existence?</p> <p>10 A. 2008.</p> <p>11 Q. Was it before or after this</p> <p>12 lawsuit was filed, do you know?</p> <p>13 A. I don't know exactly, but I</p> <p>14 think it was after the lawsuit was filed.</p> <p>15 Q. What were the circumstances</p> <p>16 that led to the Marketing Committee going out</p> <p>17 of existence?</p> <p>18 MS. LEVINE: I'm going to object</p> <p>19 to any revealing of attorney-client</p> <p>20 privilege. Mr. Gregory, you may</p> <p>21 answer the question to the extent it</p> <p>22 does not reveal any communications</p> <p>23 with your lawyers. And if you can't</p> <p>24 do so, just tell Mr. Olson.</p> <p>25 THE WITNESS: It was our belief</p>

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<p style="text-align: right;">50</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 that -- when I say "our belief," the</p> <p>3 staff's belief, the board's belief</p> <p>4 that we should be -- until the lawsuit</p> <p>5 is resolved, that we should be on a</p> <p>6 conservative -- be more conservative.</p> <p>7 BY MR. OLSON:</p> <p>8 Q. How was that decision</p> <p>9 communicated to the UEP membership?</p> <p>10 MS. LEVINE: Object to the form</p> <p>11 of the question to the extent it</p> <p>12 reveals communications with counsel.</p> <p>13 To the extent it does not, you can</p> <p>14 answer.</p> <p>15 MR. OLSON: I just asked how it</p> <p>16 was communicated to the membership,</p> <p>17 Counsel.</p> <p>18 THE WITNESS: You know, I don't</p> <p>19 really recall. I think maybe in a</p> <p>20 United Voices, I'm trying to recall,</p> <p>21 that we announced that there would be</p> <p>22 no Marketing Committee meeting at this</p> <p>23 upcoming board and membership meeting.</p> <p>24 BY MR. OLSON:</p> <p>25 Q. And do you recall whether you</p>	<p style="text-align: right;">52</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 read the Complaint, it was my opinion</p> <p>3 that we needed to do things a little</p> <p>4 different until this lawsuit was</p> <p>5 resolved.</p> <p>6 BY MR. OLSON:</p> <p>7 Q. And when you refer to being</p> <p>8 more conservative, you mean being more</p> <p>9 careful. Correct?</p> <p>10 MS. LEVINE: Object to the form</p> <p>11 of the question. Mr. Gregory can</p> <p>12 answer to his knowledge.</p> <p>13 THE WITNESS: I am speaking</p> <p>14 about things that have to do with</p> <p>15 price discovery, with marketing</p> <p>16 recommendations and those kind of</p> <p>17 things.</p> <p>18 BY MR. OLSON:</p> <p>19 Q. And I'm just trying to get a</p> <p>20 little more clarity when you use the word</p> <p>21 "conservative," because that can have</p> <p>22 different meanings to different people. When</p> <p>23 you use the term in this context</p> <p>24 "conservative," do you mean more careful?</p> <p>25 MS. LEVINE: Object to the form</p>
<p style="text-align: right;">51</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 as president gave any reason to the</p> <p>3 membership about why that was -- why that was</p> <p>4 not going to happen?</p> <p>5 A. I don't recall doing so.</p> <p>6 Q. When you say it was the staff's</p> <p>7 belief that until the lawsuit is resolved,</p> <p>8 that we should be more conservative, who are</p> <p>9 the members of the staff that participate in</p> <p>10 that decision?</p> <p>11 A. It was my decision.</p> <p>12 Q. Did the board participate in</p> <p>13 that decision?</p> <p>14 A. I don't recall. I don't recall</p> <p>15 how that communication came about.</p> <p>16 Q. And when you say be more</p> <p>17 conservative, does that mean stay away from</p> <p>18 things that were of uncertain legality?</p> <p>19 MS. LEVINE: Object to the form</p> <p>20 of the question. This is not a</p> <p>21 lawyer.</p> <p>22 THE WITNESS: By the time I had</p> <p>23 read the Complaint, you know, I was</p> <p>24 just, first of all, irritable as hell</p> <p>25 about it, but anyway, after having</p>	<p style="text-align: right;">53</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 of the question.</p> <p>3 THE WITNESS: I don't know how</p> <p>4 to answer that question. I'm sorry.</p> <p>5 BY MR. OLSON:</p> <p>6 Q. I'm not trying to put words in</p> <p>7 your mouth.</p> <p>8 A. I don't know how to answer.</p> <p>9 I'm not trying to be evasive, I just don't</p> <p>10 know.</p> <p>11 Q. Fair enough. Does it mean</p> <p>12 avoiding things that are of uncertain</p> <p>13 legality?</p> <p>14 MS. LEVINE: Object to the form</p> <p>15 of the question. Calls for a legal</p> <p>16 conclusion. This is a fact witness.</p> <p>17 THE WITNESS: I'm not a lawyer,</p> <p>18 and so I have no idea about that. I'm</p> <p>19 just trying to manage an association,</p> <p>20 and I'm trying to -- if we are in</p> <p>21 trouble, I don't want any more</p> <p>22 trouble.</p> <p>23 BY MR. OLSON:</p> <p>24 Q. Now, let's talk about a program</p> <p>25 that was one time called the Animal Care</p>

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<p style="text-align: right;">54</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Program and then became known as the UEP</p> <p>3 Certified Program.</p> <p>4 A. Yes.</p> <p>5 Q. Perhaps I'll just call it the</p> <p>6 program for now --</p> <p>7 A. Okay.</p> <p>8 Q. -- since it had those two</p> <p>9 different names. You were involved in the</p> <p>10 development of that program. Correct?</p> <p>11 A. As a staff person, I was</p> <p>12 involved in the program.</p> <p>13 Q. Now, that program was first</p> <p>14 envisioned as just a voluntary program.</p> <p>15 MS. LEVINE: Object to the form</p> <p>16 of the --</p> <p>17 BY MR. OLSON:</p> <p>18 Q. Correct?</p> <p>19 MS. LEVINE: Object to the form</p> <p>20 of the question.</p> <p>21 THE WITNESS: It was and has</p> <p>22 remained until this day a voluntary</p> <p>23 program.</p> <p>24 BY MR. OLSON:</p> <p>25 Q. I don't want words to get in</p>	<p style="text-align: right;">56</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 taking those recommendations and to</p> <p>3 try to put them into a program, and it</p> <p>4 became -- after having spent some time</p> <p>5 with the Food Marketing Institute and</p> <p>6 the National Council of Chain</p> <p>7 Restaurants, we understood that in</p> <p>8 order to verify that a farmer was</p> <p>9 actually following these guidelines,</p> <p>10 there needed to be some certification</p> <p>11 system.</p> <p>12 BY MR. OLSON:</p> <p>13 Q. Now, prior to becoming</p> <p>14 president of UEP, you were senior vice</p> <p>15 president. Correct?</p> <p>16 A. Yes.</p> <p>17 Q. In that position, you were the</p> <p>18 staff member that was assigned to the</p> <p>19 Scientific Advisory Committee. Correct?</p> <p>20 A. Yes.</p> <p>21 Q. And to the Producer Committee</p> <p>22 at UEP. Correct?</p> <p>23 A. Yes.</p> <p>24 Q. And in your position as senior</p> <p>25 vice president, you expected that</p>
<p style="text-align: right;">55</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 the way, but when the program was first</p> <p>3 conceived, the idea was there would be some</p> <p>4 guidelines, an individual egg farmer could</p> <p>5 decide whether or not to follow them and</p> <p>6 whether or not to follow all of them. Right?</p> <p>7 MS. LEVINE: Object to the form</p> <p>8 of the question.</p> <p>9 THE WITNESS: No, it was never</p> <p>10 intended that it be voluntary</p> <p>11 selective, you only follow some and</p> <p>12 not others. No, that was not the</p> <p>13 case.</p> <p>14 BY MR. OLSON:</p> <p>15 Q. Well, when it was first</p> <p>16 developed, there was no certification aspect</p> <p>17 of it. Correct?</p> <p>18 MS. LEVINE: Object to the form</p> <p>19 of the question.</p> <p>20 THE WITNESS: The Scientific</p> <p>21 Committee, once they put forth the</p> <p>22 recommendations at the board, which</p> <p>23 the board supported, once that was</p> <p>24 completed, and we had a producer,</p> <p>25 Animal Welfare Committee that was</p>	<p style="text-align: right;">57</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 implementation of the program's guidelines</p> <p>3 would lead to a flock reduction that would</p> <p>4 affect egg prices. Correct?</p> <p>5 MS. LEVINE: Object to the form</p> <p>6 of the question.</p> <p>7 THE WITNESS: The answer is no,</p> <p>8 and I object to the insinuation.</p> <p>9 - - -</p> <p>10 (Exhibit Gregory-1, Gene Gregory</p> <p>11 biography, Bates UE0209507, was marked</p> <p>12 for identification.)</p> <p>13 - - -</p> <p>14 BY MR. OLSON:</p> <p>15 Q. Let me hand you what we've</p> <p>16 marked as Gregory-1. Why don't you briefly</p> <p>17 review the document, please.</p> <p>18 UNIDENTIFIED SPEAKER: Can</p> <p>19 someone read the Bates number?</p> <p>20 MR. OLSON: Yes. This is a</p> <p>21 one-page document Bates stamped</p> <p>22 UE0209507.</p> <p>23 THE WITNESS: Was there a</p> <p>24 question?</p> <p>25 BY MR. OLSON:</p>

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<p style="text-align: right;">58</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Are you done reviewing it?</p> <p>3 A. Yes.</p> <p>4 Q. Now, can you identify this</p> <p>5 document for us?</p> <p>6 A. I cannot. I mean, I don't</p> <p>7 dispute anything here, but I get -- I don't</p> <p>8 recall the document, no.</p> <p>9 Q. But it appears to be a</p> <p>10 biography of you. Correct?</p> <p>11 A. Yes, it is.</p> <p>12 Q. While you were the president of</p> <p>13 UEP. Correct?</p> <p>14 A. Yes.</p> <p>15 Q. And I thought this would short</p> <p>16 cut things. Does it appear to be an accurate</p> <p>17 description of your background?</p> <p>18 A. Yes.</p> <p>19 Q. This refers to you pioneering</p> <p>20 the development of the UEP "5" Star Total</p> <p>21 Quality Assurance Food Safety Program. Do</p> <p>22 you see that?</p> <p>23 A. Yes.</p> <p>24 Q. When did that occur?</p> <p>25 A. Oh, gosh, let me think.</p>	<p style="text-align: right;">60</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 president holding leadership responsibilities</p> <p>3 for several organizations managed by the UEP.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. It refers to the United Egg</p> <p>7 Association Further Processors, the UEA</p> <p>8 Allied Division, and UEA Producer/Packers.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. What were your leadership</p> <p>12 responsibilities for those organizations?</p> <p>13 MS. LEVINE: Object to the form</p> <p>14 of the question.</p> <p>15 THE WITNESS: As president of</p> <p>16 UEP, and UEP had management</p> <p>17 responsibilities for these</p> <p>18 organizations, I was as such overall</p> <p>19 manage -- I guess as president I was</p> <p>20 responsible for those associations.</p> <p>21 BY MR. OLSON:</p> <p>22 Q. When you say UEP had management</p> <p>23 responsibilities and you managed them, what</p> <p>24 do you mean by "managed"? What did you do to</p> <p>25 manage them?</p>
<p style="text-align: right;">59</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Approximately. We can circle</p> <p>3 back to that.</p> <p>4 A. The reason -- I don't know if</p> <p>5 you want a story, but there's -- there is a</p> <p>6 situation where the egg industry has a</p> <p>7 problem with salmonella enteritidis, and</p> <p>8 we're struggling to figure out how to address</p> <p>9 this for our customers, our retail customers.</p> <p>10 So I sat down and wrote a food safety program</p> <p>11 which FDA found no objection to. And I can't</p> <p>12 tell you, you know, the dating of that, I'm</p> <p>13 sorry.</p> <p>14 Q. You said the egg industry has a</p> <p>15 problem with what?</p> <p>16 A. Salmonella enteritidis.</p> <p>17 Q. All right. This also refers to</p> <p>18 you --</p> <p>19 MR. OLSON: Did you get that,</p> <p>20 salmonella something?</p> <p>21 THE WITNESS: Just say SE.</p> <p>22 MR. OLSON: We'll get the</p> <p>23 spelling later.</p> <p>24 BY MR. OLSON:</p> <p>25 Q. This also refers to you as</p>	<p style="text-align: right;">61</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Each of these organizations has</p> <p>3 their own membership, their own board of</p> <p>4 directors, their own budgets, their own</p> <p>5 checking accounts, et cetera. UEP</p> <p>6 facilitated their meetings. UEP staff was</p> <p>7 responsible for their checking account and,</p> <p>8 you know, paying their bills and those kind</p> <p>9 of things. So all of those things came</p> <p>10 within -- under my management.</p> <p>11 Q. The UEA divisions did not have</p> <p>12 their own staff. Correct?</p> <p>13 MS. LEVINE: Object to the form</p> <p>14 of the question.</p> <p>15 THE WITNESS: They did not have</p> <p>16 their own staff. They paid UEP for</p> <p>17 doing so.</p> <p>18 BY MR. OLSON:</p> <p>19 Q. Did UEA members have the right</p> <p>20 to attend UEP meetings?</p> <p>21 A. There is a number of UEP</p> <p>22 meetings that are closed to members only.</p> <p>23 There are other meetings that are general</p> <p>24 type and are open to both UEP and UEA</p> <p>25 members.</p>

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<p style="text-align: right;">62</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Let's talk about the time</p> <p>3 period before this lawsuit being filed in</p> <p>4 2008.</p> <p>5 A. Right.</p> <p>6 Q. Were there any UEP meetings</p> <p>7 that were closed to UEA members?</p> <p>8 A. Yes.</p> <p>9 Q. What were those meetings?</p> <p>10 A. There would be times -- all the</p> <p>11 Executive Committee meetings were closed to</p> <p>12 anyone other than the Exec Committee. There</p> <p>13 were times that the board or any one of the</p> <p>14 other committees would go into executive</p> <p>15 session which only those people were there.</p> <p>16 Q. And in addition to Executive</p> <p>17 Committee meetings or what you called</p> <p>18 executive sessions, were there any other UEP</p> <p>19 meetings that were closed to UEA members?</p> <p>20 A. Well, there was -- you know,</p> <p>21 it's a long history. A long history.</p> <p>22 Q. Fair enough.</p> <p>23 A. I'm sorry, I can't -- there may</p> <p>24 have been, I don't -- I'm not trying to be</p> <p>25 evasive, but I don't want to say anything</p>	<p style="text-align: right;">64</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Correct?</p> <p>3 A. Yes. Yes.</p> <p>4 Q. And generally UEA members could</p> <p>5 attend UEP board meetings. Correct?</p> <p>6 MS. LEVINE: Object to the form</p> <p>7 of the question. Asked and answered.</p> <p>8 THE WITNESS: Our board</p> <p>9 members -- our board meetings were --</p> <p>10 was virtually open. We were not</p> <p>11 trying to restrict communications just</p> <p>12 to board members.</p> <p>13 BY MR. OLSON:</p> <p>14 Q. So UEA members generally could</p> <p>15 attend?</p> <p>16 A. They could, yes.</p> <p>17 Q. And generally UEA members could</p> <p>18 attend the meetings of the various UEP</p> <p>19 committees. Correct?</p> <p>20 A. They could until there was a</p> <p>21 time they'd need to go into some sort of</p> <p>22 executive session, yes.</p> <p>23 Q. And generally for the meetings</p> <p>24 that you were responsible for, you would take</p> <p>25 the minutes. Right?</p>
<p style="text-align: right;">63</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 wrong. So I don't know.</p> <p>3 Q. That's fair enough. Generally</p> <p>4 let's talk about the period, say, 1999</p> <p>5 through 2007.</p> <p>6 A. Okay.</p> <p>7 Q. Are there any other meetings</p> <p>8 other than Executive Committee meetings or</p> <p>9 what you've called executive sessions that</p> <p>10 were closed to UEA members?</p> <p>11 A. I can't recall. There may have</p> <p>12 been some. Maybe if you've got a document or</p> <p>13 something that would refresh my memory, I'd</p> <p>14 be fine.</p> <p>15 Q. Fair enough. So generally UEA</p> <p>16 members could attend the UEP annual meetings.</p> <p>17 Correct?</p> <p>18 A. Yes.</p> <p>19 MS. LEVINE: Object to the form</p> <p>20 of the question.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. OLSON:</p> <p>23 Q. In fact, usually the UEA annual</p> <p>24 meetings and the UEP annual meetings would</p> <p>25 occur at the same time in the same place.</p>	<p style="text-align: right;">65</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Some of those I did, yes.</p> <p>3 Q. And for the ones where you took</p> <p>4 the minutes, if there was an executive</p> <p>5 session that involved some sort of closing of</p> <p>6 the meeting, you would make a note of that in</p> <p>7 the minutes. Correct?</p> <p>8 MS. LEVINE: Object to the form</p> <p>9 of the question.</p> <p>10 THE WITNESS: No, not</p> <p>11 necessarily.</p> <p>12 BY MR. OLSON:</p> <p>13 Q. How did you decide whether to</p> <p>14 make a note of that or not?</p> <p>15 A. We just made an announcement</p> <p>16 we're going to go into executive session. We</p> <p>17 didn't --</p> <p>18 Q. But in the minutes you wouldn't</p> <p>19 make a note of that when it happened?</p> <p>20 A. No. Maybe I should have, but I</p> <p>21 didn't.</p> <p>22 Q. Were UEA members allowed to</p> <p>23 speak at meetings?</p> <p>24 A. You know, we had a lot of</p> <p>25 meetings over all these years. So there may</p>

17 (Pages 62 to 65)

<p style="text-align: right;">66</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 have been some time or another that they did.</p> <p>3 It was not expected that they would. It was</p> <p>4 not welcomed that they did, but I can't say</p> <p>5 that there wasn't any time that somebody</p> <p>6 didn't stand up and say something either.</p> <p>7 Q. You also can't point to any</p> <p>8 rule that would prohibit a UEA member from</p> <p>9 making a statement at a meeting. Correct?</p> <p>10 A. No.</p> <p>11 Q. UEP puts out a United Voices</p> <p>12 publication. Correct?</p> <p>13 A. Yes.</p> <p>14 Q. You were the editor of that for</p> <p>15 a long period of time. Correct?</p> <p>16 A. Yes.</p> <p>17 Q. And UEA members were sent that</p> <p>18 publication.</p> <p>19 A. Yes.</p> <p>20 Q. Correct?</p> <p>21 A. Yes.</p> <p>22 Q. And United Voices was one of</p> <p>23 the ways that UEP's information about the egg</p> <p>24 industry was disseminated to members.</p> <p>25 Correct?</p>	<p style="text-align: right;">68</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 MS. LEVINE: Object to the form</p> <p>3 of the question.</p> <p>4 - - -</p> <p>5 (Exhibit Gregory-2, January 2007</p> <p>6 Executive Committee Meeting, Bates</p> <p>7 UE0807907 - UE0807911, was marked for</p> <p>8 identification.)</p> <p>9 - - -</p> <p>10 BY MR. OLSON:</p> <p>11 Q. Let me hand you what we've</p> <p>12 marked Gregory-2. This is, again, sort of a</p> <p>13 general guideline for the deposition. Some</p> <p>14 documents are longer than others. This</p> <p>15 document is a little on the longer side.</p> <p>16 When a document is on the longer side, what</p> <p>17 I'd ask is if you just take a brief look at</p> <p>18 it, if you want to study portions of it,</p> <p>19 you're always allowed to. I'll point you to</p> <p>20 certain portions that I want to ask about and</p> <p>21 you're always -- you should always feel free</p> <p>22 to let me know that you'd like to study some</p> <p>23 portion in depth. Does that sound fair?</p> <p>24 A. Yes.</p> <p>25 Q. So why don't you take a brief</p>
<p style="text-align: right;">67</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Well, let me clarify here.</p> <p>3 We're not -- United Voices was not limited to</p> <p>4 just members of UEP and UEA. United Voices</p> <p>5 was also distributed to several people within</p> <p>6 government, university people, industry trade</p> <p>7 newspapers and magazines and these kind of</p> <p>8 things. So there was no -- we did not limit</p> <p>9 it to just a small group of UEP members and</p> <p>10 UEA members.</p> <p>11 Q. In your role as editor of</p> <p>12 United Voices, did you take steps to ensure</p> <p>13 that the information in that publication was</p> <p>14 accurate and truthful?</p> <p>15 A. Again, I am not -- I am not a</p> <p>16 journalist. So, again, sometimes I'm writing</p> <p>17 opinions, which doesn't, you know -- but</p> <p>18 generally other than when I'm writing</p> <p>19 opinions about something, I think that we</p> <p>20 tried our very best to make sure all the</p> <p>21 information was accurate.</p> <p>22 Q. When you related factual</p> <p>23 information, you would make an effort to</p> <p>24 ensure that it was accurate?</p> <p>25 A. Right.</p>	<p style="text-align: right;">69</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 look at this and let me know when you've done</p> <p>3 that. For the record, this is -- the</p> <p>4 document is Bates stamped UE0807907 through</p> <p>5 911.</p> <p>6 A. (Reviewing document.)</p> <p>7 Q. Have you had a brief chance to</p> <p>8 review the document?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Can you identify this document</p> <p>11 as one prepared by you?</p> <p>12 A. Yes.</p> <p>13 Q. And it's titled, "January 2007</p> <p>14 Executive Committee Meeting." Is this a</p> <p>15 document you prepared in advance of that</p> <p>16 meeting?</p> <p>17 A. Yes.</p> <p>18 Q. What is the Executive</p> <p>19 Committee?</p> <p>20 A. The Exec Committee is egg</p> <p>21 farmers that are elected or appointed by the</p> <p>22 Board of Directors.</p> <p>23 Q. Approximately how many members</p> <p>24 of the Executive Committee are there at one</p> <p>25 time?</p>

18 (Pages 66 to 69)

<p style="text-align: right;">70</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. It's varied. But I believe</p> <p>3 there is currently 10. The range 10, 11 is</p> <p>4 usually what it is.</p> <p>5 Q. Got it. And what was the role</p> <p>6 of the Executive Committee in the UEP</p> <p>7 organization?</p> <p>8 A. Well, it's -- I think it has</p> <p>9 several. One is that it was the committee</p> <p>10 that first -- committee that approved staff</p> <p>11 salaries. It's a committee that first</p> <p>12 reviewed and approved annual budgets. It's</p> <p>13 the -- I'm trying to think what beyond that.</p> <p>14 Q. Were those the main</p> <p>15 responsibilities it had?</p> <p>16 A. Yes.</p> <p>17 Q. And so you -- in Exhibit 2,</p> <p>18 these are some of your views about what you</p> <p>19 plan to do as the new president of UEP that</p> <p>20 you would communicate to the Executive</p> <p>21 Committee. Correct?</p> <p>22 A. I am trying to give them some</p> <p>23 thoughts on how I think that we could do</p> <p>24 things differently, yes.</p> <p>25 Q. In the second paragraph, second</p>	<p style="text-align: right;">72</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Let's turn --</p> <p>3 A. My role is not beyond that is</p> <p>4 what I'm saying.</p> <p>5 Q. Let's turn to the second page</p> <p>6 which continues a list started on the first</p> <p>7 page about immediate changes that you</p> <p>8 contemplated. Number 8 refers to there's a</p> <p>9 prohibition in the employee handbook about</p> <p>10 UEP staff having corporate credit cards.</p> <p>11 Correct?</p> <p>12 A. Yes.</p> <p>13 Q. You say, "...we need to</p> <p>14 acknowledge that an individual has held two</p> <p>15 corporate credit cards."</p> <p>16 Do you see that?</p> <p>17 A. Yes, I see that.</p> <p>18 Q. And who is that individual?</p> <p>19 A. Am I required to talk about</p> <p>20 people that --</p> <p>21 Q. You are, but your counsel also</p> <p>22 has the right to designate portions of the</p> <p>23 transcript at a high level of confidentiality</p> <p>24 which might apply in a situation like this.</p> <p>25 MS. LEVINE: You're not allowed</p>
<p style="text-align: right;">71</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 sentence, you write that "UEP is unique in</p> <p>3 that the President and staff are a reflection</p> <p>4 in voice of the Board decisions." What did</p> <p>5 you mean by that?</p> <p>6 A. In my view, the staff is --</p> <p>7 whatever the Board of Directors' decision is,</p> <p>8 regardless of whether we agree with that or</p> <p>9 not, it is the -- it is my position that we</p> <p>10 believe those meetings and those motions and</p> <p>11 we are 100 percent in favor of it as we leave</p> <p>12 that in communications with the members and</p> <p>13 the industry. But we are a -- we are the</p> <p>14 vehicle by which that gets expressed.</p> <p>15 Q. And what, in your view, is</p> <p>16 unique about that setup?</p> <p>17 A. I think it's somewhat unique in</p> <p>18 that I'm not sure -- I think in some</p> <p>19 organizations that are larger -- of course,</p> <p>20 we've got such a small staff. I think in</p> <p>21 some organizations the president of the</p> <p>22 organization is more the organization than</p> <p>23 just -- you know, it's like he is the</p> <p>24 authority as such. And in my view, my role</p> <p>25 is to be the voice of the board in this.</p>	<p style="text-align: right;">73</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 to reveal any communications with</p> <p>3 counsel, but besides that, you can</p> <p>4 answer the question. And in this area</p> <p>5 we can designate it as highly</p> <p>6 confidential.</p> <p>7 THE WITNESS: Despite -- despite</p> <p>8 permission to do so, the previous</p> <p>9 president of UEP had a corporate</p> <p>10 credit card.</p> <p>11 BY MR. OLSON:</p> <p>12 Q. Despite not having the</p> <p>13 permission to do so?</p> <p>14 A. Right.</p> <p>15 Q. Right. And just so your</p> <p>16 testimony is clear, despite the fact that --</p> <p>17 A. Well, let me say, years ago</p> <p>18 there were corporate credit cards, there were</p> <p>19 company cards and that kind of thing. That</p> <p>20 all changed and then there were no corporate</p> <p>21 credit cards, there were no cards acquired</p> <p>22 and that kind of thing. That's been some</p> <p>23 years ago. But he kept a corporate card.</p> <p>24 Q. And that's Mr. Pope. Correct?</p> <p>25 A. Yes.</p>

19 (Pages 70 to 73)

<p style="text-align: right;">74</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. And he had two corporate credit</p> <p>3 cards?</p> <p>4 A. You know, I say two and I</p> <p>5 don't -- today, I don't know if I'm certain</p> <p>6 about that or not. I assume that must be</p> <p>7 correct, but I can't --</p> <p>8 Q. And he was using those</p> <p>9 corporate credit cards for personal expenses?</p> <p>10 MS. LEVINE: Object to the form</p> <p>11 of the question.</p> <p>12 THE WITNESS: No, I don't think</p> <p>13 that's necessarily the case. I think</p> <p>14 it was business that he was using it</p> <p>15 for, so -- and his expense report was</p> <p>16 approved by the treasurer, but I don't</p> <p>17 think he was using it for personal</p> <p>18 reasons.</p> <p>19 BY MR. OLSON:</p> <p>20 Q. Just so we're clear, do you</p> <p>21 recall what he was using the corporate credit</p> <p>22 cards for one way or the other?</p> <p>23 A. I can't identify that exactly.</p> <p>24 Q. When you say Mr. Pope's expense</p> <p>25 report was approved by the treasurer, who was</p>	<p style="text-align: right;">76</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. I understand, but we have to</p> <p>3 ask the question.</p> <p>4 MS. LEVINE: Mr. Gregory, I</p> <p>5 think the important part is that you</p> <p>6 listen to Mr. Olson's question and</p> <p>7 just answer the question.</p> <p>8 THE WITNESS: Okay. Repeat the</p> <p>9 question then, please.</p> <p>10 BY MR. OLSON:</p> <p>11 Q. Do you recall ever learning of</p> <p>12 any issues with Mr. Pope's expense reports?</p> <p>13 A. Yes.</p> <p>14 Q. What do you recall?</p> <p>15 A. One -- you know, I have nothing</p> <p>16 wrong with trying to explain the mistakes or</p> <p>17 things that I did wrong. I hate to do that</p> <p>18 to other people, so to answer --</p> <p>19 Q. Is this something that you have</p> <p>20 not disclosed before? I mean, in other</p> <p>21 words, is this something that has not been</p> <p>22 made public before?</p> <p>23 A. So I'll tell you the story. I</p> <p>24 recall that Al Pope was in California for</p> <p>25 health reasons, and our president at that</p>
<p style="text-align: right;">75</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 the treasurer?</p> <p>3 A. Well, the treasurer usually</p> <p>4 changed on an every two-year period. So I</p> <p>5 don't know who would have been the treasurer</p> <p>6 at that time.</p> <p>7 Q. Was that a UEP staff position?</p> <p>8 A. No, no, no.</p> <p>9 Q. That was a member position?</p> <p>10 A. Member of the board, an</p> <p>11 executive.</p> <p>12 Q. Do you recall ever learning of</p> <p>13 any issues with Mr. Pope's expense reports?</p> <p>14 A. Do I have to answer that?</p> <p>15 Q. Yes.</p> <p>16 MS. LEVINE: To the extent it</p> <p>17 does not reveal attorney-client</p> <p>18 privilege, and we can designate this</p> <p>19 as highly confidential. Just listen</p> <p>20 to Mr. Olson's question.</p> <p>21 THE WITNESS: All I'm saying,</p> <p>22 this is putting me in a real bad</p> <p>23 position because, you know, I don't</p> <p>24 want to do anything that --</p> <p>25 BY MR. OLSON:</p>	<p style="text-align: right;">77</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 time -- there had been some questions about</p> <p>3 Mr. Pope's expense accounts before. And our</p> <p>4 president at that time was interested in -- I</p> <p>5 can remember, the president or the treasurer</p> <p>6 through communication at the time. Anyway,</p> <p>7 there were some expenses being incurred while</p> <p>8 he was on leave in California for medical</p> <p>9 reasons. And there was a question about</p> <p>10 whether he was using -- he was charging</p> <p>11 things to the company that were personal.</p> <p>12 That's --</p> <p>13 Q. And it turned out he was.</p> <p>14 Correct?</p> <p>15 MS. LEVINE: Object to the form</p> <p>16 of the question. To the extent this</p> <p>17 witness knows what the expenses were</p> <p>18 for.</p> <p>19 MR. OLSON: You don't need to</p> <p>20 coach the witness.</p> <p>21 MS. LEVINE: I'm not coaching</p> <p>22 the witness.</p> <p>23 MR. OLSON: Good.</p> <p>24 THE WITNESS: I can't -- I</p> <p>25 hadn't anticipated this kind of stuff.</p>

20 (Pages 74 to 77)

<p style="text-align: right;">78</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Yes, it was, it was discovered,</p> <p>3 learned, by our outside auditor, and</p> <p>4 the auditor made Mr. Pope aware of it</p> <p>5 and said that he would need to take a</p> <p>6 W-2 on those.</p> <p>7 BY MR. OLSON:</p> <p>8 Q. And what did Mr. Pope instruct</p> <p>9 the auditor to do?</p> <p>10 MS. LEVINE: Object to the form</p> <p>11 of the question.</p> <p>12 THE WITNESS: At that meeting,</p> <p>13 he had agreed with the auditor.</p> <p>14 BY MR. OLSON:</p> <p>15 Q. You -- what was the name of the</p> <p>16 auditor you have in mind?</p> <p>17 A. Jeff Stevens.</p> <p>18 Q. I see a reference to a woman</p> <p>19 named Sherry. Do you know her last name?</p> <p>20 A. Sherry Shedd is our vice</p> <p>21 president of finance.</p> <p>22 Q. What was her involvement in</p> <p>23 this situation?</p> <p>24 A. Well, she is -- she's the one</p> <p>25 that does all of our financial statements and</p>	<p style="text-align: right;">80</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Correct?</p> <p>3 MS. LEVINE: Object to the form</p> <p>4 of the question.</p> <p>5 THE WITNESS: I don't know that.</p> <p>6 - - -</p> <p>7 (Exhibit Gregory-3, 4/11/05</p> <p>8 E-mail, Bates NL 001147, was marked</p> <p>9 for identification.)</p> <p>10 - - -</p> <p>11 BY MR. OLSON:</p> <p>12 Q. Let me hand you what's been</p> <p>13 marked as Gregory-3.</p> <p>14 A. I'm having trouble</p> <p>15 understanding what this has to do with this.</p> <p>16 Q. This is a one page e-mail,</p> <p>17 Bates stamped NL 001147. Let me know when</p> <p>18 you've reviewed the e-mail, please.</p> <p>19 A. (Reviewing document.)</p> <p>20 Q. Could you identify this as an</p> <p>21 e-mail you sent to Roger Deffner on April 11,</p> <p>22 2005?</p> <p>23 A. Yes.</p> <p>24 Q. In this e-mail, you tell Mr.</p> <p>25 Deffner that Al Pope had instructed Ms. Shedd</p>
<p style="text-align: right;">79</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 she's the one that works with the auditor,</p> <p>3 when he comes in, with the annual audit.</p> <p>4 She's the one that, you know, in a sense</p> <p>5 prepares all the finance information.</p> <p>6 Q. What was her last name?</p> <p>7 A. Shedd.</p> <p>8 Q. Shedd. And Ms. Shedd is the</p> <p>9 one who identified the fact that Mr. Pope had</p> <p>10 done this. Correct?</p> <p>11 MS. LEVINE: Object to the form</p> <p>12 of the question.</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MR. OLSON:</p> <p>15 Q. And what did Mr. Pope instruct</p> <p>16 Ms. Shedd to do?</p> <p>17 MS. LEVINE: Object to the form</p> <p>18 of the question. Mr. Gregory, just</p> <p>19 answer the questions to the best of</p> <p>20 your knowledge, what you know.</p> <p>21 THE WITNESS: He asked her not</p> <p>22 to issue the W-2.</p> <p>23 BY MR. OLSON:</p> <p>24 Q. And he told her to hide the</p> <p>25 expenses in a line item in the UEA budget.</p>	<p style="text-align: right;">81</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 to hide her expenses in a line item.</p> <p>3 Correct?</p> <p>4 MS. LEVINE: Object to the form</p> <p>5 of the question.</p> <p>6 MR. OLSON: What's the</p> <p>7 objection?</p> <p>8 MS. LEVINE: The document speaks</p> <p>9 for itself. If you want him to read</p> <p>10 the letter, ask him to read it.</p> <p>11 BY MR. OLSON:</p> <p>12 Q. Do you want me to repeat the</p> <p>13 question?</p> <p>14 A. I -- this is what the document</p> <p>15 says, so...</p> <p>16 Q. Does that refresh your</p> <p>17 recollection about what had occurred?</p> <p>18 A. Yes, I guess.</p> <p>19 Q. And is what you state in this</p> <p>20 document, is that consistent with your</p> <p>21 recollection about what had occurred? I'm</p> <p>22 just trying to make it easy. Is what you</p> <p>23 wrote here consistent with your recollection?</p> <p>24 A. Yes.</p> <p>25 Q. Now --</p>

21 (Pages 78 to 81)

<p style="text-align: right;">82</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. What does this have to do with</p> <p>3 any of this stuff? You're asking me to rat</p> <p>4 out on a former president of the company.</p> <p>5 What does that have to do with the lawsuit?</p> <p>6 Q. This is just a document that</p> <p>7 was produced to us, we saw it, we just want</p> <p>8 to know what happened.</p> <p>9 Now, who is Mr. Deffner and</p> <p>10 what was his role at this time?</p> <p>11 A. He's an egg farmer in the State</p> <p>12 of Washington and a member, I believe at that</p> <p>13 particular time, he was -- I believe he was</p> <p>14 chairman of the board.</p> <p>15 Q. Is that why you're reporting</p> <p>16 this situation to Mr. Deffner?</p> <p>17 A. I had been previously asked</p> <p>18 about some things, so I felt an obligation to</p> <p>19 tell him what had happened.</p> <p>20 Q. You had been previously asked</p> <p>21 about some things by Mr. Deffner?</p> <p>22 A. Yes.</p> <p>23 Q. What did he ask you about?</p> <p>24 A. I don't know. I mean, it's</p> <p>25 just these are conversations. I can't recall</p>	<p style="text-align: right;">84</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 the tape, so maybe it's a good time to</p> <p>3 take a break.</p> <p>4 VIDEOGRAPHER: The time is</p> <p>5 10:25. We're going off the video</p> <p>6 record.</p> <p>7 - - -</p> <p>8 (A recess was taken.)</p> <p>9 - - -</p> <p>10 VIDEOGRAPHER: The time is</p> <p>11 10:38. This is tape number two.</p> <p>12 BY MR. OLSON:</p> <p>13 Q. Mr. Gregory, we're looking at</p> <p>14 Gregory Exhibit 2. I'd like to look at</p> <p>15 page 2 where you talk about some appointments</p> <p>16 that you had planned to make with staff</p> <p>17 members.</p> <p>18 A. Uh-huh.</p> <p>19 Q. And first you mention a Howard</p> <p>20 Magwire.</p> <p>21 A. Yes.</p> <p>22 Q. And that you were going to</p> <p>23 change his title to UEP vice president</p> <p>24 government relations. Correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">83</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 a conversation that far back.</p> <p>3 Q. But generally about Mr. Pope's</p> <p>4 expenses?</p> <p>5 MS. LEVINE: Object to the form</p> <p>6 of the question. Asked and answered.</p> <p>7 THE WITNESS: Treasurers had</p> <p>8 noted some things that they had</p> <p>9 concerns about, and it's kind of</p> <p>10 passed down from one treasurer to the</p> <p>11 other or from one president to the</p> <p>12 other and that kind of thing, and so</p> <p>13 this was Roger had been inquiring</p> <p>14 about these kind of things.</p> <p>15 BY MR. OLSON:</p> <p>16 Q. Why did you ask Mr. Deffner to</p> <p>17 keep this in confidence?</p> <p>18 A. Because I thought it was</p> <p>19 between me and him. I was just informing him</p> <p>20 as the chairman of the board what these</p> <p>21 conditions were.</p> <p>22 Q. And was this conduct disclosed</p> <p>23 to UEP's membership?</p> <p>24 A. No.</p> <p>25 MR. OLSON: We need to change</p>	<p style="text-align: right;">85</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Is he still in that position</p> <p>3 today?</p> <p>4 A. He's retired now.</p> <p>5 Q. When did that occur</p> <p>6 approximately?</p> <p>7 A. Let's see. Howard actually</p> <p>8 retired, I think, sometime in 2011, but</p> <p>9 continued to work for us on a contract basis</p> <p>10 in that capacity on an as-need basis.</p> <p>11 Q. Did someone replace Mr. Magwire?</p> <p>12 A. Have not yet. Have not filled</p> <p>13 that position.</p> <p>14 Q. You also state here, "We will</p> <p>15 make it known that Howard will have full</p> <p>16 responsibility for the management of the UEA</p> <p>17 Further Processor Division."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Did that occur?</p> <p>21 A. Yes.</p> <p>22 Q. So he was manager of that</p> <p>23 division after you became president?</p> <p>24 A. Yes.</p> <p>25 Q. Next you speak about Ms.</p>

22 (Pages 82 to 85)

<p style="text-align: right;">86</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Blizzard. You were promoting her to the</p> <p>3 position of director of UEP's Egg Trading</p> <p>4 Program. Did that occur?</p> <p>5 A. Yes. Previously to that, she</p> <p>6 had no title.</p> <p>7 Q. What was her responsibility</p> <p>8 previous to that?</p> <p>9 A. She is the one that is doing</p> <p>10 the egg trading amongst our members as well</p> <p>11 as working for the U.S. Egg Marketers members</p> <p>12 to coordinate inquiries about exports.</p> <p>13 Q. So she was doing that prior to</p> <p>14 2007?</p> <p>15 A. Yes.</p> <p>16 Q. And you gave her a more formal</p> <p>17 title and position?</p> <p>18 A. Yes. Right.</p> <p>19 Q. Does she continue in those</p> <p>20 roles today?</p> <p>21 A. She is now the president of</p> <p>22 U.S. Egg Marketers, and she continues to do</p> <p>23 egg trading for UEP.</p> <p>24 Q. All right. Then there's a</p> <p>25 mention of some other staff including Chad</p>	<p style="text-align: right;">88</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. And you refer to a severance</p> <p>3 package provided Al Pope. Do you recall what</p> <p>4 that severance package was?</p> <p>5 A. Not in great detail, but it was</p> <p>6 a three-year period in which we paid him a</p> <p>7 compensation for over a three-year period and</p> <p>8 he continued to be on our insurance and</p> <p>9 401(k) plan.</p> <p>10 Q. As of the time you stepped down</p> <p>11 as president, was UEP providing any sort of</p> <p>12 compensation or benefits or part-time</p> <p>13 compensation to Mr. Pope?</p> <p>14 A. Would you state that again?</p> <p>15 Q. As of the end of 2012, was Mr.</p> <p>16 Pope still being provided any sort of</p> <p>17 compensation or benefits?</p> <p>18 A. No. No.</p> <p>19 Q. Let's look to the next page</p> <p>20 where you -- there's a heading that says,</p> <p>21 "Now let me share a few ideas of projects</p> <p>22 that we hope to explore."</p> <p>23 A. Yes.</p> <p>24 Q. And you've -- I know you've</p> <p>25 already reviewed this. I wanted to look at a</p>
<p style="text-align: right;">87</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Gregory. You say, "He will assume the</p> <p>3 position of Staff Director for the UEA Allied</p> <p>4 Division..." Did that occur?</p> <p>5 A. Yes.</p> <p>6 Q. Today he's president. Is there</p> <p>7 a staff director of that division today?</p> <p>8 MS. LEVINE: Object to the form</p> <p>9 of the question. Be clear what entity</p> <p>10 you're talking about.</p> <p>11 THE WITNESS: Are you asking if</p> <p>12 he is still the staff director of the</p> <p>13 Allied Division?</p> <p>14 BY MR. OLSON:</p> <p>15 Q. Yes.</p> <p>16 A. You know, I --</p> <p>17 Q. If you're not sure, that's</p> <p>18 fine.</p> <p>19 A. I'm not sure whether he's</p> <p>20 appointed one of the other people to that or</p> <p>21 not.</p> <p>22 Q. Fair enough. All right.</p> <p>23 Future -- there's a headline, a heading that</p> <p>24 says, "FUTURE."</p> <p>25 A. Right.</p>	<p style="text-align: right;">89</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 couple of them. In point 1, you refer to the</p> <p>3 Long Range Planning Committee. What was the</p> <p>4 Long Range Planning Committee?</p> <p>5 A. It was a committee that was</p> <p>6 formed for a special purpose, a single</p> <p>7 purpose, to look at the future or the future</p> <p>8 of our organization and make any kind of</p> <p>9 recommendations that they felt appropriate</p> <p>10 for -- to the board.</p> <p>11 Q. Now, this committee would be</p> <p>12 convened from time to time over the years.</p> <p>13 Correct?</p> <p>14 MS. LEVINE: Object to the form</p> <p>15 of the question.</p> <p>16 THE WITNESS: No. That was not</p> <p>17 like a standing committee.</p> <p>18 BY MR. OLSON:</p> <p>19 Q. Just to be clear, because you</p> <p>20 referred to there being a single purpose. I</p> <p>21 just want the record to be clear, the Long</p> <p>22 Range Planning Committee had convened before</p> <p>23 2007.</p> <p>24 A. It was, yes, at one other</p> <p>25 occasion, I think it there was. We're now,</p>

23 (Pages 86 to 89)

<p style="text-align: right;">90</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 it's not -- what I'm saying is, this is not</p> <p>3 like a committee that is an ongoing regular</p> <p>4 meeting type of thing. This is, you know --</p> <p>5 this is short term type of thing.</p> <p>6 Q. And the long range planning</p> <p>7 that the committee -- strike that. We'll</p> <p>8 move on.</p> <p>9 Let's look at point 2. Have</p> <p>10 you reviewed that or do you want to review it</p> <p>11 again before I ask you about a couple of</p> <p>12 portions of it?</p> <p>13 A. I think I --</p> <p>14 Q. Okay. So the first sentence</p> <p>15 you refer to a widening gap between shell egg</p> <p>16 producer/marketers and egg breaking product</p> <p>17 companies. You say, "all of which are our</p> <p>18 members." Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. You're referring to both the</p> <p>21 shell egg producer and the egg breaking</p> <p>22 product companies being our members.</p> <p>23 Correct?</p> <p>24 A. Yes.</p> <p>25 Q. And that refers to UEP?</p>	<p style="text-align: right;">92</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 one of the markets for shell egg producers</p> <p>3 when they had surplus eggs?</p> <p>4 A. Yes.</p> <p>5 Q. And there was a change in the</p> <p>6 industry where that market dried up to some</p> <p>7 degree. Correct?</p> <p>8 A. Yes.</p> <p>9 Q. That was approximately what,</p> <p>10 the late '90s?</p> <p>11 A. I don't want to be pinned down</p> <p>12 on dates because that construction has been</p> <p>13 an ongoing thing and it's still going on.</p> <p>14 Q. When would you say it became --</p> <p>15 A. In the 1990s is when this began</p> <p>16 to occur basically.</p> <p>17 Q. And that's when it began to be</p> <p>18 somewhat of a problem for the shell egg side</p> <p>19 of the industry. Correct?</p> <p>20 A. It progressively got worse as</p> <p>21 they built more of their own housing.</p> <p>22 Q. And it progressively got worse</p> <p>23 throughout the '90s. Right?</p> <p>24 A. Yeah. And, you know, we're</p> <p>25 talking about into early years of 2000 as</p>
<p style="text-align: right;">91</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. And you say that there's a</p> <p>4 widening gap between those two types of</p> <p>5 members. What did you mean by "a widening</p> <p>6 gap"?</p> <p>7 A. Well, what occurred, there was</p> <p>8 a period in our history where there was shell</p> <p>9 egg producers and egg breaking companies</p> <p>10 simply bought eggs from shell egg producers.</p> <p>11 As the time has passed now, most egg breaking</p> <p>12 companies now have built their own egg</p> <p>13 breaking -- have built their own egg</p> <p>14 production houses so they're producing their</p> <p>15 own eggs now. The reason why there's a</p> <p>16 widening gap is that that used to be a market</p> <p>17 for shell egg producers' surplus eggs. Now</p> <p>18 that they have their own production, not only</p> <p>19 has that stopped the flow of shell eggs to a</p> <p>20 market that was surplus, they, in fact,</p> <p>21 themselves at times are producing surplus</p> <p>22 eggs that is depressing the shell egg price.</p> <p>23 Q. So before the egg breaking</p> <p>24 companies integrated back into having some of</p> <p>25 their own production, those companies were</p>	<p style="text-align: right;">93</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 well. We're not -- I'm not limiting it to</p> <p>3 the '90s.</p> <p>4 Q. So it got worse through the</p> <p>5 '90s into the early 2000s, and that caused</p> <p>6 the shell egg producers to have to look</p> <p>7 around for other ways to handle their surplus</p> <p>8 eggs.</p> <p>9 A. Yes.</p> <p>10 Q. Now, you say here in point 2</p> <p>11 that many people say I am even the cause of</p> <p>12 this conflict between these two types of</p> <p>13 entities because of my role in the Animal</p> <p>14 Welfare Program. Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. What were you referring to</p> <p>17 there? How did the Animal Welfare Program</p> <p>18 lead to this gap or conflict?</p> <p>19 A. Our industry and our customers,</p> <p>20 retail customers were being attacked by</p> <p>21 animal activists in a number of ways. And so</p> <p>22 the reason for developing this science base</p> <p>23 of UEP certified program was to provide a</p> <p>24 solution for this, hopefully a solution for</p> <p>25 this attack that was occurring upon our</p>

24 (Pages 90 to 93)

<p style="text-align: right;">94</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 industry. The difference is that in the egg</p> <p>3 products business, they're not necessarily</p> <p>4 producing a product that is like an egg</p> <p>5 carton on the grocery shelf. They are</p> <p>6 producing a liquid egg product, and much of</p> <p>7 the time that is used as an ingredient into</p> <p>8 manufacturing some other food product. And</p> <p>9 those people that were ingredient buyers as</p> <p>10 such were not being attacked by the animal</p> <p>11 activist movement as yet. So the egg</p> <p>12 products, the egg breaking members that we</p> <p>13 had were not as receptive to an Animal</p> <p>14 Welfare Program because it was going to cost</p> <p>15 money to implement it and they didn't feel</p> <p>16 that their customers were concerned about</p> <p>17 this.</p> <p>18 Q. And because of the way UEP</p> <p>19 developed the program, those egg breaking</p> <p>20 members weren't allowed to produce eggs that</p> <p>21 were certified under the program for the</p> <p>22 customers who wanted those and to produce</p> <p>23 eggs that were not certified under the</p> <p>24 program for the customers who didn't want</p> <p>25 certified eggs. Right?</p>	<p style="text-align: right;">96</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. And because of the way the</p> <p>4 certified program was developed, that egg</p> <p>5 breaking member of UEP couldn't have produced</p> <p>6 some eggs that were certified and produced</p> <p>7 some eggs that were not certified. Correct?</p> <p>8 MS. LEVINE: Object to the form.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. OLSON:</p> <p>11 Q. And that was cause of conflict</p> <p>12 with those members of UEP. Correct?</p> <p>13 MS. LEVINE: Object to the form</p> <p>14 of the question.</p> <p>15 THE WITNESS: You're making that</p> <p>16 as an assumption, you know, I think.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. Well, you said -- you refer to</p> <p>19 the cause of the conflict in this. I'm</p> <p>20 asking, that was part of the conflict that</p> <p>21 arose, right?</p> <p>22 MS. LEVINE: Object to the form</p> <p>23 of the question. Asked and answered.</p> <p>24 THE WITNESS: You identified,</p> <p>25 you know, you have two separate</p>
<p style="text-align: right;">95</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 MS. LEVINE: Object to the form</p> <p>3 of the question. Compound. Assumes</p> <p>4 facts not in evidence.</p> <p>5 THE WITNESS: Restate it if you</p> <p>6 don't mind.</p> <p>7 BY MR. OLSON:</p> <p>8 Q. So just picking up on what you</p> <p>9 said, the conflict here came about because</p> <p>10 under the UEP certified program, an egg</p> <p>11 breaking company couldn't have its shell eggs</p> <p>12 certified for those customers who wanted</p> <p>13 certified eggs, but not have to have its</p> <p>14 eggs -- try it again.</p> <p>15 A. But I understand.</p> <p>16 MS. LEVINE: Let Mr. Olson ask</p> <p>17 the question which you can answer.</p> <p>18 BY MR. OLSON:</p> <p>19 Q. I think you understand the</p> <p>20 point. Let me try it again.</p> <p>21 An egg breaking company has --</p> <p>22 might have a couple different types of</p> <p>23 customers, some who want certified eggs and</p> <p>24 some who really don't have a demand for</p> <p>25 certified eggs. Right?</p>	<p style="text-align: right;">97</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 markets. You have two separate</p> <p>3 customers. The UEP certified program</p> <p>4 was developed to improve the welfare</p> <p>5 of egg laying hens and to address a</p> <p>6 public issue as well.</p> <p>7 BY MR. OLSON:</p> <p>8 Q. But I'm just referring to this</p> <p>9 aspect of the gap or the conflict between the</p> <p>10 shell egg side and the egg breaking side.</p> <p>11 MS. LEVINE: Mr. Olson, when you</p> <p>12 ask the witness a question, the</p> <p>13 witness gets to answer the question,</p> <p>14 then you get to answer (sic) another</p> <p>15 one. Mr. Gregory, you can give your</p> <p>16 full answer.</p> <p>17 THE WITNESS: So the program was</p> <p>18 to developed to improve the welfare of</p> <p>19 egg laying hens. It was not addressed</p> <p>20 to be that you can do it on some of</p> <p>21 your hens, you can be humane on some</p> <p>22 of your hens and inhumane on some</p> <p>23 other hens, it was your voluntary</p> <p>24 right to implement this program if you</p> <p>25 wanted to. But if you wanted to be</p>

25 (Pages 94 to 97)

<p style="text-align: right;">98</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 recognized as UEP certified, you were</p> <p>3 going to have to do it on 100 percent</p> <p>4 of your birds, because otherwise it</p> <p>5 destroyed the credibility of the</p> <p>6 program.</p> <p>7 BY MR. OLSON:</p> <p>8 Q. And that requirement caused</p> <p>9 some conflict between UEP members?</p> <p>10 A. Yes.</p> <p>11 Q. Now, you also referred to your</p> <p>12 role in the price discovery to causing this</p> <p>13 conflict. What did you mean by that?</p> <p>14 A. I think what it was is that</p> <p>15 there is -- there was still an interest by --</p> <p>16 the role of price discovery is to make sure</p> <p>17 that you put together all the factual</p> <p>18 information as to what the cost of production</p> <p>19 is for some terms of it and provide that</p> <p>20 information to the market reporter. There is</p> <p>21 a conflict in that shell egg producers want</p> <p>22 obviously high price, but they want the</p> <p>23 market quote to reflect what's actually going</p> <p>24 on in the market. There were egg breaking</p> <p>25 companies that were dominant egg breaking</p>	<p style="text-align: right;">100</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. I don't want to. You ask --</p> <p>3 you can ask me for some names and I'll try to</p> <p>4 confirm that, but just to give you names off</p> <p>5 the top of my head, I don't want to do that.</p> <p>6 Q. And why is that?</p> <p>7 A. I'd like for you to ask me the</p> <p>8 question is so and so.</p> <p>9 Q. But you've been in the egg</p> <p>10 industry much longer than I have. I couldn't</p> <p>11 even necessarily give you a name. What</p> <p>12 are -- when you refer to there being the egg</p> <p>13 breaking companies that were dominant on the</p> <p>14 egg breaking side, what are some companies</p> <p>15 that are examples of that?</p> <p>16 A. Again, I'd prefer you to tell</p> <p>17 me the name of someone and ask me the</p> <p>18 question rather than just a general question</p> <p>19 of just anybody that I can come off the top</p> <p>20 of my head. Why should I --</p> <p>21 Q. I'm just not in a position to</p> <p>22 do that, so I'd like you to tell me some</p> <p>23 examples of companies that meet that</p> <p>24 criteria.</p> <p>25 A. I have a question, why do I --</p>
<p style="text-align: right;">99</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 more so than shell eggs. And some of those</p> <p>3 egg breaking companies needed to buy eggs</p> <p>4 from, you know, they weren't producing all</p> <p>5 their eggs so they needed to buy some eggs.</p> <p>6 They obviously -- when they want to buy eggs,</p> <p>7 they want to buy them as cheap as they</p> <p>8 possibly can. So they were more interested</p> <p>9 in price discovery of the egg product side.</p> <p>10 And the conflict was that UEP was spending</p> <p>11 all of our time on the egg -- on the price</p> <p>12 discovery of shell eggs. So they were</p> <p>13 assessed, saying to UEP can you do something</p> <p>14 that could help on the price discovery of the</p> <p>15 egg product side.</p> <p>16 Q. And when you refer to the egg</p> <p>17 breaking companies that were dominant on the</p> <p>18 egg breaking side, what are some examples of</p> <p>19 that?</p> <p>20 A. There are -- as these companies</p> <p>21 have transitioned --</p> <p>22 Q. Can you give some companies</p> <p>23 that are examples of that?</p> <p>24 A. No, I don't --</p> <p>25 Q. Do any come to mind?</p>	<p style="text-align: right;">101</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 MS. LEVINE: Mr. Gregory, I</p> <p>3 think all Mr. Olson is asking you is</p> <p>4 based on this document, can you recall</p> <p>5 sitting here today any companies that</p> <p>6 you were referring to. That's really</p> <p>7 just the question.</p> <p>8 MR. OLSON: It's not actually</p> <p>9 not the documents, the testimony he</p> <p>10 just gave. He referred to egg -- he</p> <p>11 says there were egg breaking companies</p> <p>12 that were dominant egg breaking more</p> <p>13 so than shell eggs, and I'd just to,</p> <p>14 just so we're on the same page, know</p> <p>15 what are some examples of that?</p> <p>16 THE WITNESS: Michael Foods</p> <p>17 would be one.</p> <p>18 BY MR. OLSON:</p> <p>19 Q. Are there any others that come</p> <p>20 to mind?</p> <p>21 A. I can't --</p> <p>22 Q. Okay. Maybe we'll circle back</p> <p>23 to that when I have some names in front of</p> <p>24 me.</p> <p>25 A. Right.</p>

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<p style="text-align: right;">102</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Now, you also referred to USEM</p> <p>3 exports being a cause of this conflict</p> <p>4 between shell egg producers and egg breaking</p> <p>5 companies. What were you referring to there?</p> <p>6 This is in Gregory-2.</p> <p>7 A. The conflict is that, again,</p> <p>8 shell egg producers want the price of eggs to</p> <p>9 improve. And that is not in the -- always in</p> <p>10 the best interest of the egg breaking</p> <p>11 companies that they do so. And so when an</p> <p>12 export was taken by U.S. Egg Marketers, there</p> <p>13 were short-term market benefits from that.</p> <p>14 And that was not -- egg breaking companies</p> <p>15 didn't feel that was in their best interest.</p> <p>16 Q. When you say "short-term market</p> <p>17 benefits," you're referring to improvements</p> <p>18 in domestic egg prices. Correct?</p> <p>19 A. Yes.</p> <p>20 Q. Now, in this Gregory-2, you</p> <p>21 make the point that as president of UEP you</p> <p>22 wanted to bring these two sectors of industry</p> <p>23 closer together. Correct?</p> <p>24 A. Yes.</p> <p>25 Q. The shell egg producers and the</p>	<p style="text-align: right;">104</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 You refer towards the end to wanting to hold</p> <p>3 a meeting of key industry people from all</p> <p>4 these different sectors for a brainstorming</p> <p>5 session. Do you see that?</p> <p>6 A. With all these changes --</p> <p>7 Q. Mr. Gregory, I should have</p> <p>8 noted that when you read out loud, it's very</p> <p>9 hard for the court reporter. So it's best to</p> <p>10 just read quietly, because when people read</p> <p>11 out loud, they do it very quickly.</p> <p>12 MS. LEVINE: She has to type</p> <p>13 everything. So you can read it and</p> <p>14 tell Mr. Olson when you're finished</p> <p>15 reading.</p> <p>16 BY MR. OLSON:</p> <p>17 Q. Okay. So you've looked at</p> <p>18 that. Did you hold a brainstorming session</p> <p>19 like that?</p> <p>20 A. I don't recall us doing that.</p> <p>21 Q. And you refer to the marketing</p> <p>22 pie. You say, "...the marketing pie is only</p> <p>23 so large and we all have a piece of it."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">103</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 egg breaking companies. Right?</p> <p>3 A. Yes.</p> <p>4 Q. And you went to meet with UEA</p> <p>5 members to talk about ideas for doing that.</p> <p>6 Correct?</p> <p>7 MS. LEVINE: Object to the form</p> <p>8 of the question.</p> <p>9 THE WITNESS: I think at that --</p> <p>10 I think previously the UEA processor</p> <p>11 members felt that, you know, they were</p> <p>12 just like something off on the side of</p> <p>13 the room that UEP didn't pay enough</p> <p>14 attention to or UEP was not interested</p> <p>15 in, and my idea was that I would try</p> <p>16 to tell them that I would listen to</p> <p>17 their concerns and I would try to find</p> <p>18 ways to improve communications between</p> <p>19 the two organizations.</p> <p>20 BY MR. OLSON:</p> <p>21 Q. And did you meet with the UEA</p> <p>22 membership to communicate?</p> <p>23 A. Yes, I did.</p> <p>24 Q. In point 3 you talk about some</p> <p>25 of these -- the same issues a little bit.</p>	<p style="text-align: right;">105</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. And you're referring to -- when</p> <p>3 you say "we all," you're referring to the</p> <p>4 shell egg side and the egg breaking side.</p> <p>5 Right?</p> <p>6 A. Yes. Yes.</p> <p>7 Q. You say that "...we all need to</p> <p>8 work together to avoid surpluses that drive</p> <p>9 our markets to unprofitable prices for long</p> <p>10 periods of time."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. So what you're saying is the</p> <p>14 shell egg side and the egg breaking side</p> <p>15 needs to work together to avoid surplus of</p> <p>16 eggs. Right?</p> <p>17 A. Yes.</p> <p>18 Q. If you turn the page, the last</p> <p>19 point on this document, there's a point 7</p> <p>20 where you say, "UEP is so privileged to have</p> <p>21 a number of consultants with expertise that</p> <p>22 we could never afford to employ full time."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. UEP had consultants that it</p>

27 (Pages 102 to 105)

<p style="text-align: right;">106</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 would engage on a part-time basis, correct,</p> <p>3 or for particular projects?</p> <p>4 A. What I'm referring to here is</p> <p>5 that none of these people were employees and</p> <p>6 none of these people -- they're working on</p> <p>7 particular areas of expertise.</p> <p>8 Q. And from time to time UEP would</p> <p>9 pay a consultant to work on a particular</p> <p>10 project. Correct?</p> <p>11 MS. LEVINE: Object to the form</p> <p>12 of the question.</p> <p>13 THE WITNESS: Can I explain this</p> <p>14 or do I just answer? I think yes is</p> <p>15 an inappropriate answer.</p> <p>16 BY MR. OLSON:</p> <p>17 Q. Now, can you tell --</p> <p>18 A. So I asked you a question.</p> <p>19 Q. Oh --</p> <p>20 A. I said --</p> <p>21 Q. Oh is an inappropriate answer.</p> <p>22 A. Yes.</p> <p>23 Q. So UEP did not hire consultants</p> <p>24 to work on particular projects?</p> <p>25 A. Randy Green is an employee of</p>	<p style="text-align: right;">108</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 projects?</p> <p>3 A. What UEP did was that they</p> <p>4 made a -- they paid into the -- this was when</p> <p>5 he was at Michigan State University. They</p> <p>6 paid into a Michigan State University</p> <p>7 account. I can't remember what it was. But</p> <p>8 it was not him. He was the president -- no,</p> <p>9 he was the Dean of Agriculture at Michigan</p> <p>10 State University, and it was an account or</p> <p>11 whatever it is for Michigan State University</p> <p>12 Dean of Agriculture. That's --</p> <p>13 Q. Okay.</p> <p>14 A. In other words, we could not</p> <p>15 pay Jeff Armstrong.</p> <p>16 Q. So UEP never paid Mr. Armstrong</p> <p>17 for consulting services, correct, directly?</p> <p>18 Never paid him directly?</p> <p>19 A. I know there's times we paid</p> <p>20 honorariums at Christmas to some of these</p> <p>21 people. You know, we may have, I don't</p> <p>22 recall.</p> <p>23 Q. So you -- sitting here today,</p> <p>24 you can't recall whether UEP paid Jeff</p> <p>25 Armstrong directly for consulting services.</p>
<p style="text-align: right;">107</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 the McLeod, Watkinson & Miller law firm in</p> <p>3 Washington, D.C., and we use Randy Green as</p> <p>4 our consultant as such on government</p> <p>5 relations affairs. Jeff Armstrong was -- is</p> <p>6 now anyway, the president of Cal Poly State</p> <p>7 University. We use him as an consultant on</p> <p>8 all animal welfare type things. Mitch Head</p> <p>9 is with the GolinHarris public relations</p> <p>10 firm, and we use him as a consultant in</p> <p>11 public relations areas. Dr. Hongwei Xin is</p> <p>12 with the University of Iowa, and he's our</p> <p>13 consultant on environmental issues. I'm</p> <p>14 trying to think. So we had consultants, so</p> <p>15 did we pay -- Randy Green was an employee of</p> <p>16 McLeod, Watkinson & Miller, we contracted --</p> <p>17 we paid McLeod, Watkinson & Miller as our</p> <p>18 government relations representative in</p> <p>19 Washington. Mitch Head of GolinHarris, we</p> <p>20 paid them through a public relations -- they</p> <p>21 did public relations work for us. Hongwei</p> <p>22 Xin we did not pay. Jeff Armstrong we did</p> <p>23 not pay. Who else did I mention?</p> <p>24 Q. That's all you mentioned. So</p> <p>25 UEP never paid Jeff Armstrong for any</p>	<p style="text-align: right;">109</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Correct?</p> <p>3 A. I'm saying we may have, but I</p> <p>4 don't recall. I do recall the Michigan State</p> <p>5 University fund that we contributed to.</p> <p>6 - - -</p> <p>7 (Exhibit Gregory-4, 3/7/05</p> <p>8 Letter, Bates UE0662322, was marked</p> <p>9 for identification.)</p> <p>10 - - -</p> <p>11 BY MR. OLSON:</p> <p>12 Q. Let me hand you what's been</p> <p>13 marked Gregory-4. We just have a couple of</p> <p>14 copies of this one in fact. I need that.</p> <p>15 This is Bates stamped</p> <p>16 UE0662322. Can you identify this as a letter</p> <p>17 you wrote on March 7, 2005, to Mr. Armstrong?</p> <p>18 A. Yes.</p> <p>19 Q. Does this refresh your</p> <p>20 recollection about whether UEP paid Mr.</p> <p>21 Armstrong for consulting services?</p> <p>22 A. It does not clear to me whether</p> <p>23 that \$9,000 was paid to him or was paid into</p> <p>24 that Michigan State University account that I</p> <p>25 talked...</p>

28 (Pages 106 to 109)

110	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 The travel to Europe was, it</p> <p>3 was covering his expenses because he, along</p> <p>4 with a group of people, went to Europe and we</p> <p>5 visited egg farms in Europe.</p> <p>6 Q. Well, we don't have the checks</p> <p>7 in front of us, but what you say is please --</p> <p>8 "Dear Jeff: Please find UEP's checks for</p> <p>9 your consulting services during 2005..."</p> <p>10 Correct?</p> <p>11 A. And I'm not questioning that.</p> <p>12 What I'm saying is that I don't know whether</p> <p>13 the check is to him or is to Michigan State</p> <p>14 University is what I'm saying.</p> <p>15 Q. But you sent it directly to him</p> <p>16 at his home. Correct?</p> <p>17 A. It appears that way, yes.</p> <p>18 Q. All right. You can put that</p> <p>19 aside.</p> <p>20 How about Don Bell, was he ever</p> <p>21 paid for consulting services?</p> <p>22 A. He was not paid for consulting</p> <p>23 services. He was contracted for -- after he</p> <p>24 had retired from the university, there was</p> <p>25 nobody in the industry that had his data and</p>	112	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 what functions does UEP do that</p> <p>3 could -- as a trade association?</p> <p>4 BY MR. OLSON:</p> <p>5 Q. What functions of a trade</p> <p>6 association does UEP perform?</p> <p>7 MS. LEVINE: Object to the form</p> <p>8 of the question.</p> <p>9 THE WITNESS: I don't know that</p> <p>10 we do that. I thought we did so as a</p> <p>11 cooperative.</p> <p>12 - - -</p> <p>13 (Exhibit Gregory-5, 5/8/07</p> <p>14 Statement of the United Egg Producers</p> <p>15 Before the Subcommittee on Livestock,</p> <p>16 Dairy, and Poultry Committee on</p> <p>17 Agriculture U.S. House of</p> <p>18 Representatives, Bates UE0567055 -</p> <p>19 UE0567060, was marked for identification.</p> <p>20 - - -</p> <p>21 BY MR. OLSON:</p> <p>22 Q. Let me hand you what's been</p> <p>23 marked Gregory-5. Just ask you to take a</p> <p>24 brief look at it and then we'll look at a</p> <p>25 couple other portions.</p>
111	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 was keeping his information, and so as a</p> <p>3 bridge until somebody else could be found to</p> <p>4 accumulate that information, we contracted on</p> <p>5 a monthly basis, I think it was, for him to</p> <p>6 carry on that service.</p> <p>7 Q. And when did that start?</p> <p>8 A. I don't know what the date was.</p> <p>9 Q. Approximately?</p> <p>10 A. No.</p> <p>11 Q. Before Mr. Bell retired, was he</p> <p>12 ever paid for any consulting services by UEP?</p> <p>13 MS. LEVINE: Objection. Asked</p> <p>14 and answered.</p> <p>15 THE WITNESS: Not to my</p> <p>16 knowledge.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. What functions of a trade</p> <p>19 association does UEP perform?</p> <p>20 MS. LEVINE: Object to the form</p> <p>21 of the question. This witness is not</p> <p>22 a lawyer. To the extent he can answer</p> <p>23 the question on his own facts, factual</p> <p>24 information, he can answer.</p> <p>25 THE WITNESS: Your question is</p>	113	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 UNIDENTIFIED SPEAKER: Can you,</p> <p>3 please, identify the Bates range of</p> <p>4 the document?</p> <p>5 MR. OLSON: Yes. It is</p> <p>6 UE0567055 through 567060.</p> <p>7 UNIDENTIFIED SPEAKER: Thank</p> <p>8 you.</p> <p>9 BY MR. OLSON:</p> <p>10 Q. Mr. Gregory, I'm only going to</p> <p>11 ask about the first couple of the pages of</p> <p>12 the document, so if you --</p> <p>13 A. Okay.</p> <p>14 Q. So can you identify this as a</p> <p>15 statement you made on behalf of UEP to a</p> <p>16 committee or a subcommittee of the United</p> <p>17 States House of Representatives?</p> <p>18 A. Yes.</p> <p>19 Q. On May 8, 2007. Correct?</p> <p>20 A. Yes. Can I say anything more</p> <p>21 about that?</p> <p>22 Q. Let me ask a couple more</p> <p>23 questions.</p> <p>24 Did you attend that subcommittee</p> <p>25 hearing in person?</p>

29 (Pages 110 to 113)

<p style="text-align: right;">114</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Did you submit this written</p> <p>4 statement to that subcommittee?</p> <p>5 A. Yes.</p> <p>6 Q. Did you read it out loud at the</p> <p>7 hearing?</p> <p>8 A. Yes.</p> <p>9 Q. All right. Did you have any</p> <p>10 help in drafting this statement?</p> <p>11 A. Yes.</p> <p>12 Q. And who helped you draft it?</p> <p>13 A. Randy Green.</p> <p>14 Q. All right. On the first page</p> <p>15 there's a heading that says, "About UEP."</p> <p>16 Do you see that?</p> <p>17 A. Uh-huh.</p> <p>18 Q. And you say, among other</p> <p>19 things, "We are a farm cooperative, and in</p> <p>20 addition to performing all the functions of a</p> <p>21 trade association, we also administer a</p> <p>22 program of animal husbandry standards called</p> <p>23 the UEP Certified Program."</p> <p>24 Do you see that?</p> <p>25 A. Uh-huh. Yes.</p>	<p style="text-align: right;">116</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 well as providing egg trading, access to</p> <p>3 insurance and other services."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. What egg trading services did</p> <p>7 UEP provide?</p> <p>8 A. Again, Phyllis Blizzard, she</p> <p>9 trades eggs for our members, those when they</p> <p>10 have -- you know, not all of our members, but</p> <p>11 some of our members, if they have surplus</p> <p>12 eggs, they will call her and then she will</p> <p>13 try to find another egg producer that's short</p> <p>14 of eggs and try to match those up. So we</p> <p>15 serve as a broker in that.</p> <p>16 Q. And this service is available</p> <p>17 to UEA members as well. Correct?</p> <p>18 A. You know what, I don't know if</p> <p>19 we ever done any business with UEA members.</p> <p>20 Q. Sitting here today, do you</p> <p>21 recall whether this service was available to</p> <p>22 UEA members?</p> <p>23 A. That was not the intention of</p> <p>24 this. This was for UEP members.</p> <p>25 Q. Are you sure of that?</p>
<p style="text-align: right;">115</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. What functions of a trade</p> <p>3 association does UEP perform?</p> <p>4 MS. LEVINE: Object to the form</p> <p>5 of the question.</p> <p>6 THE WITNESS: Again, I'm</p> <p>7 struggling with that because I've</p> <p>8 never worked for a trade association.</p> <p>9 So I think a trade association</p> <p>10 probably could do all things other</p> <p>11 than -- in reference to UEP, I think</p> <p>12 they could do all things other than</p> <p>13 those things that has to do with</p> <p>14 discussions of supply, demand or of</p> <p>15 recommendations of supply actions.</p> <p>16 Basically anything that has to do with</p> <p>17 the market.</p> <p>18 BY MR. OLSON:</p> <p>19 Q. You continue to say, "In</p> <p>20 addition, we negotiate and conclude export</p> <p>21 sales through our subsidiary, U.S. Egg</p> <p>22 Marketers..."</p> <p>23 Do you see that?</p> <p>24 A. Yes, I do.</p> <p>25 Q. You continue to say, "...as</p>	<p style="text-align: right;">117</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Listen, Mr. --</p> <p>3 Q. I'm just asking, I can't tell</p> <p>4 if you're certain or you're uncertain.</p> <p>5 A. Sitting here today, I'm not</p> <p>6 sure of anything.</p> <p>7 Q. Okay. We'll look at some</p> <p>8 documents later and maybe we'll circle back</p> <p>9 to it.</p> <p>10 A. That's what I would invite.</p> <p>11 Q. I didn't mean to be accusatory</p> <p>12 by that. I just couldn't tell if this was</p> <p>13 something that you were certain of or whether</p> <p>14 you were uncertain.</p> <p>15 A. I'm not trying to evade your</p> <p>16 question. I don't have a memory of that ever</p> <p>17 happening is what I'm saying.</p> <p>18 Q. Understood.</p> <p>19 Do you recall how many UEP</p> <p>20 members approximately used the egg trading</p> <p>21 service?</p> <p>22 A. Through the -- no, I don't, but</p> <p>23 through the years it has declined. At one</p> <p>24 time lots of them did. Today very few.</p> <p>25 Q. Would it be fair to say as of</p>

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<p style="text-align: right;">118</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 2007, it was relatively few members?</p> <p>3 MS. LEVINE: Object to the form</p> <p>4 of the question.</p> <p>5 THE WITNESS: Yeah, it was --</p> <p>6 BY MR. OLSON:</p> <p>7 Q. Let me try it this way: Can</p> <p>8 you put any more meat on that statement that</p> <p>9 over time it declined and at one time there</p> <p>10 were a lot and then there were very few? Can</p> <p>11 you give more specificity about the time</p> <p>12 period?</p> <p>13 A. No. I think I've answered the</p> <p>14 question.</p> <p>15 Q. Would it be fair to say as of</p> <p>16 2007, relatively few UEP members used the egg</p> <p>17 trading service?</p> <p>18 A. I would not say that. I don't</p> <p>19 know.</p> <p>20 Q. Do you know approximately how</p> <p>21 many UEP members used the egg trading service</p> <p>22 while you were president of UEP?</p> <p>23 A. I do not.</p> <p>24 Q. Did UEP take a commission on</p> <p>25 the egg trading sales?</p>	<p style="text-align: right;">120</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 if he would be willing to put forth a</p> <p>3 Scientific Advisory Committee that could</p> <p>4 evaluate our industry and tell us if we need</p> <p>5 to make changes, but that we would not pay</p> <p>6 anybody for doing so, and that we would --</p> <p>7 but we would cover their expenses for</p> <p>8 meetings. Now you're going to bring back the</p> <p>9 letter to Jeff Armstrong, and I know you're</p> <p>10 going to do so, but I want you to know that</p> <p>11 that's 2005. Jeff Armstrong was not paid for</p> <p>12 his work on the Scientific Committee. That</p> <p>13 Scientific Committee completed that work long</p> <p>14 before this. This is work that he is doing</p> <p>15 for us as I told you as a consultant in</p> <p>16 animal welfare, in all forms of animal</p> <p>17 welfare unrelated to the program.</p> <p>18 Q. So when did the Scientific</p> <p>19 Committee complete its unpaid work?</p> <p>20 A. Well, no, the Scientific</p> <p>21 Committee delivered those recommendations for</p> <p>22 this program to us. I believe, that was in</p> <p>23 September of 2000. But that Scientific</p> <p>24 Committee has not left us. It is an ongoing</p> <p>25 committee that is still involved with us even</p>
<p style="text-align: right;">119</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. All right. Let's turn to the</p> <p>4 second page of Gregory Exhibit 5. At the top</p> <p>5 you say, "Let me say unequivocally that the</p> <p>6 well-being of farm animals is a legitimate</p> <p>7 topic of public interest."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Do you still believe that</p> <p>11 today?</p> <p>12 A. Yes.</p> <p>13 Q. Let's look under the heading "A</p> <p>14 Science-Based Approach," have you reviewed</p> <p>15 what's under that heading?</p> <p>16 A. I quickly looked at it, yes.</p> <p>17 Q. In the first paragraph, you</p> <p>18 stated to the House of Representatives that</p> <p>19 UEP commissioned an unpaid Scientific</p> <p>20 Advisory Committee. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. What was the significance of it</p> <p>23 being unpaid?</p> <p>24 A. When we first approached Dr.</p> <p>25 Armstrong, we said that we would -- we asked</p>	<p style="text-align: right;">121</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 today.</p> <p>3 Q. Okay. So as of 2007, in this</p> <p>4 statement to the House of Representative's</p> <p>5 Committee, the Scientific Committee was still</p> <p>6 performing ongoing work for UEP?</p> <p>7 A. Yes.</p> <p>8 Q. Relating to animal welfare?</p> <p>9 A. Yes.</p> <p>10 Q. How do you reconcile your</p> <p>11 statement that they were unpaid with the</p> <p>12 document that you've noted where --</p> <p>13 A. As I just told you --</p> <p>14 Q. Let me just ask the question.</p> <p>15 -- where Mr. Armstrong was paid</p> <p>16 for consulting services related to animal</p> <p>17 welfare?</p> <p>18 A. So I just told you the</p> <p>19 Scientific Committee had completed their work</p> <p>20 on this UEP certified program.</p> <p>21 Q. And when did they complete that</p> <p>22 work?</p> <p>23 A. September 2000. During all</p> <p>24 that time, and even to this day, no one other</p> <p>25 than Dr. Armstrong has ever been paid for</p>

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<p style="text-align: right;">122</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 consulting, and his consulting was not as it</p> <p>3 relates to the UEP certified program, but it</p> <p>4 is animal welfare totally. And that didn't</p> <p>5 start until after that UEP certified program.</p> <p>6 Their work had been done.</p> <p>7 Q. In the second paragraph at the</p> <p>8 end you say, "To ensure its objectivity, the</p> <p>9 committee..." and I believe you're referring</p> <p>10 to the Scientific Advisory Committee.</p> <p>11 A. Yes.</p> <p>12 Q. You say, "...did not include</p> <p>13 any producers as members."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. And why did you make that</p> <p>17 point?</p> <p>18 A. Because the Scientific</p> <p>19 Committee did not include any producers.</p> <p>20 Q. But what's the significance of</p> <p>21 that?</p> <p>22 A. To show the independence of the</p> <p>23 committee.</p> <p>24 Q. In the next paragraph you say,</p> <p>25 "The Scientific Committee recommended</p>	<p style="text-align: right;">124</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 president of UEP. Correct?</p> <p>3 A. Yes.</p> <p>4 Q. You say -- you continue</p> <p>5 discussing what would happen when the cage</p> <p>6 space recommendation was followed, you say</p> <p>7 also "...total egg output will decline..."</p> <p>8 Do you see that?</p> <p>9 A. For that -- for the house. The</p> <p>10 total output will decline because you have</p> <p>11 less hens in it.</p> <p>12 Q. That was your expectation as</p> <p>13 president of UEP as well. Correct?</p> <p>14 A. Yes.</p> <p>15 Q. You also stated that producers'</p> <p>16 fixed costs for each unit of output would</p> <p>17 increase. Do you see that?</p> <p>18 A. It says, Thus, producers'</p> <p>19 costs -- fixed costs for each unit of output</p> <p>20 increases. What I'm talking about there is</p> <p>21 that you have certain fixed cost as it</p> <p>22 relates to insurance on the buildings. You</p> <p>23 have taxes on the buildings. You have --</p> <p>24 there are certain fixed costs that when you</p> <p>25 divide that fixed cost over a less number of</p>
<p style="text-align: right;">123</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 significant changes in egg production</p> <p>3 practices."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. What significant changes did it</p> <p>7 recommend?</p> <p>8 A. It recommended changes as it</p> <p>9 relates to space per bird. It recommended</p> <p>10 changes in the way we beak trim birds. It</p> <p>11 recommended changes the way we molt our hens.</p> <p>12 It recommended changes as a way we handle</p> <p>13 birds. It's -- there are numerous.</p> <p>14 Q. To this house subcommittee you</p> <p>15 identified one of the most important</p> <p>16 recommendations as the increase in the amount</p> <p>17 of space for each bird and cage production</p> <p>18 systems. Correct?</p> <p>19 A. Yes.</p> <p>20 Q. You say, "When this</p> <p>21 recommendation is followed, the total number</p> <p>22 of birds in a henhouse will fall..."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. That was your expectation as</p>	<p style="text-align: right;">125</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 eggs, then it increases on a per dozen basis.</p> <p>3 Q. Now, in the next paragraph you</p> <p>4 provide some quotes by Dr. Armstrong. Do you</p> <p>5 see that?</p> <p>6 The next paragraph states, "Dr.</p> <p>7 Armstrong has written and spoken extensively</p> <p>8 about UEP's adoption of scientific</p> <p>9 guidelines."</p> <p>10 Do you see that?</p> <p>11 A. Uh-huh.</p> <p>12 Q. "On behalf of the entire</p> <p>13 committee, he has said..." and you give a</p> <p>14 quote there, We believe these guidelines set</p> <p>15 the basis for humane care.</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Where does that quote come</p> <p>19 from?</p> <p>20 A. I can't tell you today, but I</p> <p>21 assume that that was a quote that he actually</p> <p>22 stated or wrote.</p> <p>23 Q. Now, the Scientific Committee</p> <p>24 adopted some guidelines.</p> <p>25 A. No. The scientific --</p>

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<p style="text-align: right;">126</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Go ahead.</p> <p>3 A. The Scientific Committee made</p> <p>4 recommendations which then became guidelines.</p> <p>5 Q. So is it your testimony that</p> <p>6 Mr. Armstrong endorsed the UEP guidelines on</p> <p>7 behalf of the entire committee as setting the</p> <p>8 baseline for humane care?</p> <p>9 A. I believe so.</p> <p>10 MS. LEVINE: Object to the form</p> <p>11 of the question.</p> <p>12 THE WITNESS: Yes, I believe so.</p> <p>13 BY MR. OLSON:</p> <p>14 Q. All right. If you turn to the</p> <p>15 next page, at the end of this section, second</p> <p>16 sentence you say, "UEP has never rejected a</p> <p>17 recommendation by the committee..."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Why did you make that point?</p> <p>21 A. Because I'm trying to say that</p> <p>22 UEP was not selective of the scientific</p> <p>23 recommendations.</p> <p>24 Q. What's the significance of</p> <p>25 that, in your view?</p>	<p style="text-align: right;">128</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Let me -- actually if you turn</p> <p>3 to the last page of this document, there's</p> <p>4 just one thing I wanted to ask you about.</p> <p>5 There's a sentence you write, "The</p> <p>6 marketplace is the appropriate place to</p> <p>7 establish science-based standards that will</p> <p>8 allow consumers to make their own choices."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Do you still believe that</p> <p>12 today?</p> <p>13 A. Yes.</p> <p>14 Q. All right. You can put that</p> <p>15 aside.</p> <p>16 - - -</p> <p>17 (Exhibit Gregory-6, 2/22/99</p> <p>18 United Voices, Bates UE0064537 -</p> <p>19 UE064539, was marked for identification.)</p> <p>20 - - -</p> <p>21 BY MR. OLSON:</p> <p>22 Q. Let me hand you --</p> <p>23 A. Can I explain what this is?</p> <p>24 Q. Yes. Well, you know, we don't</p> <p>25 have time, but, you know, your counsel later</p>
<p style="text-align: right;">127</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. In my view, it is the fact that</p> <p>3 here is a scientific committee making</p> <p>4 recommendations to improve the welfare of our</p> <p>5 laying hens. It is not our role then, it is</p> <p>6 not UEP's role then to be selective of those</p> <p>7 recommendations.</p> <p>8 Q. And if you UEP had been</p> <p>9 selective of the recommendations, would that</p> <p>10 harm the credibility of the program?</p> <p>11 MS. LEVINE: Object to the form</p> <p>12 of the question. Asks for a</p> <p>13 hypothetical. Mr. Gregory can ask --</p> <p>14 answer based on his facts.</p> <p>15 THE WITNESS: That's pure</p> <p>16 speculation, I think.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. Would it have harmed the</p> <p>19 credibility of the program, in your view, if</p> <p>20 the UEP Producer Committee had been selective</p> <p>21 about what recommendations from the</p> <p>22 Scientific Committee it adopted?</p> <p>23 MS. LEVINE: Same objection.</p> <p>24 THE WITNESS: Yes.</p> <p>25 BY MR. OLSON:</p>	<p style="text-align: right;">129</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 can -- will have some time to ask you to do</p> <p>3 things like that.</p> <p>4 A. My point is that you are</p> <p>5 selective of what you want to ask me without</p> <p>6 knowing the context of why this is even done.</p> <p>7 Q. Just so you know, the reason I</p> <p>8 do that is because I have limited time.</p> <p>9 A. I understand that.</p> <p>10 Q. So I've handed you what we've</p> <p>11 marked as Gregory-6. It's a United Voices</p> <p>12 dated February 22, 1999. It's Bates stamped</p> <p>13 UE0064537 through 64539.</p> <p>14 And, Mr. Gregory, can you</p> <p>15 identify this for the record as a United</p> <p>16 Voices publication from February 22, 1999?</p> <p>17 A. Yes.</p> <p>18 Q. You edited this publication.</p> <p>19 Correct?</p> <p>20 A. Yes.</p> <p>21 Q. All right. On the first page</p> <p>22 there is a heading that says, "ANIMAL WELFARE</p> <p>23 COMMITTEE HOLDS FIRST MEETING."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">130</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Why don't you go ahead and just</p> <p>3 review that short section there, please.</p> <p>4 A. (Reviewing document.)</p> <p>5 Okay.</p> <p>6 Q. All right. Did you put that</p> <p>7 section together?</p> <p>8 A. I'm sure I did.</p> <p>9 Q. And you were the staff member</p> <p>10 responsible for the Scientific Advisory</p> <p>11 Committee. Correct?</p> <p>12 A. Yes.</p> <p>13 Q. You identify the members of the</p> <p>14 committee in this publication. Correct?</p> <p>15 A. Yes.</p> <p>16 Q. And one of the members you</p> <p>17 identify is a person named Barrie Wilcox.</p> <p>18 Correct?</p> <p>19 A. He is not a member of the</p> <p>20 committee.</p> <p>21 Q. Mr. Gregory, this publication</p> <p>22 says, "Members of the committee are."</p> <p>23 A. Yes, I understand that. That's</p> <p>24 an error. He is not a member of the</p> <p>25 committee. He's not a scientist.</p>	<p style="text-align: right;">132</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Now, this report about the</p> <p>3 first meeting talks about the issues that</p> <p>4 were discussed. Do you see that? There's</p> <p>5 some bullets.</p> <p>6 A. Yes.</p> <p>7 Q. One of them is "Molting and the</p> <p>8 economics of such."</p> <p>9 A. Right.</p> <p>10 Q. What were the economic issues</p> <p>11 about molting that were being discussed by</p> <p>12 the Scientific Advisory Committee at this</p> <p>13 time?</p> <p>14 A. I don't recall. I can tell you</p> <p>15 about molting or I can tell you about the</p> <p>16 molting -- economics of molting, but I can't</p> <p>17 tell you what they were doing there.</p> <p>18 Q. That's an acceptable answer if</p> <p>19 you don't recall.</p> <p>20 Let's look at the second page.</p> <p>21 There's a heading that says, "EGG PRICE</p> <p>22 COMPARISON."</p> <p>23 A. Yes.</p> <p>24 Q. Would that have been a section</p> <p>25 that you would have drafted?</p>
<p style="text-align: right;">131</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. We'll get to that aspect of it,</p> <p>3 but let's just be very clear. In the United</p> <p>4 Voices publication you wrote on February 22,</p> <p>5 1999, you list Barrie Wilcox as a member of</p> <p>6 the committee, correct, of the Scientific</p> <p>7 Advisory Committee?</p> <p>8 MS. LEVINE: Objection. Asked</p> <p>9 and answered. Go ahead.</p> <p>10 THE WITNESS: That is an error</p> <p>11 on my part because he is not a</p> <p>12 scientist. He should have been listed</p> <p>13 as a, you know, producer, supporter,</p> <p>14 whatever it is. So that is an error.</p> <p>15 You may find other errors in -- of the</p> <p>16 number of newspapers -- newsletters I</p> <p>17 wrote over the years. Barrie Wilcox</p> <p>18 is not a member of that committee. I</p> <p>19 don't give a damn if it does show him</p> <p>20 as a member of that committee.</p> <p>21 BY MR. OLSON:</p> <p>22 Q. What if the Scientific Advisory</p> <p>23 Committee report listed him as a member,</p> <p>24 would that change your view?</p> <p>25 A. It would not.</p>	<p style="text-align: right;">133</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Likely so. I don't know.</p> <p>3 Q. All right. In the first</p> <p>4 paragraph you report on some hen inventory</p> <p>5 numbers. Do you know where you're getting</p> <p>6 those numbers from?</p> <p>7 A. They all come from published</p> <p>8 figures by USDA National Agriculture Service.</p> <p>9 Q. You conclude by saying, "Does</p> <p>10 the hen inventory have an impact upon egg</p> <p>11 price quotes?"</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. You say, "We think so."</p> <p>15 A. Yes.</p> <p>16 Q. And the "we" is UEP. Right?</p> <p>17 Or you in the general we?</p> <p>18 A. In this case, I don't know</p> <p>19 whether it's me or it's UEP.</p> <p>20 Q. How does hen inventory impact</p> <p>21 egg price quotes?</p> <p>22 MS. LEVINE: Object to the form</p> <p>23 of the question. This is not an</p> <p>24 economist. To the extent, Mr.</p> <p>25 Gregory, you have facts that you can</p>

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<p style="text-align: right;">134</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 respond, you may do so.</p> <p>3 THE WITNESS: Well, the more</p> <p>4 hens you have, they're producing more</p> <p>5 eggs and so if you're -- egg industry</p> <p>6 is a commodity business. It's based</p> <p>7 on supply and demand. If you have</p> <p>8 more hens as needed producing more</p> <p>9 eggs than needed, then it has an</p> <p>10 effect on the price of eggs being</p> <p>11 depressed.</p> <p>12 BY MR. OLSON:</p> <p>13 Q. In the conclusion of that</p> <p>14 section about the egg price comparison you</p> <p>15 state, "UEP's Marketing Committee will be</p> <p>16 meeting on March 8th in Chicago and will very</p> <p>17 likely consider recommendations for improving</p> <p>18 the supply-demand conditions."</p> <p>19 Do you see that?</p> <p>20 A. Yes, I do.</p> <p>21 Q. Why did you consider it likely</p> <p>22 at this time that they would make those types</p> <p>23 of recommendations?</p> <p>24 A. You've given me something dated</p> <p>25 February 22, 1999. There's no way in the</p>	<p style="text-align: right;">136</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Was he an egg producer?</p> <p>3 A. Yes.</p> <p>4 Q. What company was he at?</p> <p>5 A. Cal-Maine Foods.</p> <p>6 Q. Then he begins -- so I take it</p> <p>7 from time to time you would publish in United</p> <p>8 Voices editorials written by others?</p> <p>9 A. Yes.</p> <p>10 Q. Did you have a practice about</p> <p>11 how that happened or did you just make an</p> <p>12 individual decision about which ones to</p> <p>13 publish? How did that happen?</p> <p>14 A. That, I don't recall. He was</p> <p>15 the chairman of the board and if he wanted</p> <p>16 to -- if he wanted to say something to the</p> <p>17 membership, I wasn't going to say no.</p> <p>18 Q. You might even put it right at</p> <p>19 the beginning of the piece?</p> <p>20 A. That's why it is.</p> <p>21 Q. So the first sentence he says,</p> <p>22 "The key to profitable prices the last half</p> <p>23 of 1999 is the number of old hens that</p> <p>24 disappear between now and December 31, 1999."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">135</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 world I can remember that.</p> <p>3 Q. Okay. Fair enough. I have to</p> <p>4 ask the questions, but if you don't know the</p> <p>5 answer, that's fine. You can put that aside.</p> <p>6 - - -</p> <p>7 (Exhibit Gregory-7, 4/19/99</p> <p>8 United Voices, Bates UE0064509 -</p> <p>9 UE0064514, was marked for identification.</p> <p>10 - - -</p> <p>11 BY MR. OLSON:</p> <p>12 Q. Let me hand you what's been</p> <p>13 marked UEP -- I'm sorry, Gregory Exhibit 7.</p> <p>14 This is a document that is Bates stamped</p> <p>15 UE0064509 through 64514. I'll ask you if you</p> <p>16 can identify this as a United Voices</p> <p>17 publication that you edited dated April 19,</p> <p>18 1999?</p> <p>19 A. Yes.</p> <p>20 Q. Now, the first section here</p> <p>21 titled, "HEN DISAPPEARANCE - KEY TO PROFITS."</p> <p>22 And it's an editorial by Ken Looper. Who is</p> <p>23 Mr. Looper?</p> <p>24 A. He at that time was chairman of</p> <p>25 the board.</p>	<p style="text-align: right;">137</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. I see it, but I'm having</p> <p>3 trouble understanding it. The dating is</p> <p>4 somehow wrong.</p> <p>5 Q. I think he's saying that the</p> <p>6 number of hens that disappear between now and</p> <p>7 the end of the year.</p> <p>8 A. But this is written in April of</p> <p>9 '99, that's what I'm saying.</p> <p>10 Q. Isn't what he saying that the</p> <p>11 key to profitable egg prices for the rest of</p> <p>12 the year --</p> <p>13 A. Yes.</p> <p>14 Q. -- is how many eggs</p> <p>15 disappear -- I'm sorry, how many hens</p> <p>16 disappear?</p> <p>17 MS. LEVINE: Object to the form</p> <p>18 of the question. This is written by</p> <p>19 someone other than the witness. He</p> <p>20 can testify to what he knows about the</p> <p>21 article.</p> <p>22 BY MR. OLSON:</p> <p>23 Q. That's what he's saying. Correct?</p> <p>24 A. I think so, yes.</p> <p>25 Q. And hen disappearance, that</p>

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<p style="text-align: right;">138</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 occurs through what's referred to as</p> <p>3 slaughter. Correct?</p> <p>4 A. Yes.</p> <p>5 Q. Or at least that's one of the</p> <p>6 ways. Right?</p> <p>7 A. Yes.</p> <p>8 Q. That means killing hens before</p> <p>9 you normally would. Right?</p> <p>10 MS. LEVINE: Object to the form.</p> <p>11 THE WITNESS: Not necessarily,</p> <p>12 no.</p> <p>13 BY MR. OLSON:</p> <p>14 Q. Or just it refers to killing</p> <p>15 hens. Right?</p> <p>16 A. Yes.</p> <p>17 Q. There's also -- he makes</p> <p>18 reference to rendering, do you know what</p> <p>19 rendering is?</p> <p>20 A. Yes.</p> <p>21 Q. What is that?</p> <p>22 A. Rendering are -- renderers are</p> <p>23 companies that take products and -- I'm not</p> <p>24 sure I can explain, but they -- for instance,</p> <p>25 they might take products from restaurants or</p>	<p style="text-align: right;">140</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. -- were changing how UEP</p> <p>3 members dealt with a surplus of eggs. Right?</p> <p>4 A. Yes.</p> <p>5 Q. And it's happening at this</p> <p>6 time. Correct?</p> <p>7 A. Yes.</p> <p>8 Q. So Mr. Looper says, "Now is the</p> <p>9 time to concentrate hard on the supply side</p> <p>10 of our business." Right?</p> <p>11 A. Okay. Yes.</p> <p>12 Q. And that was partly the results</p> <p>13 of these changes in the industry that were</p> <p>14 occurring. Right?</p> <p>15 MS. LEVINE: Object to the form</p> <p>16 of the question. Again, this is not</p> <p>17 written by the witness.</p> <p>18 BY MR. OLSON:</p> <p>19 Q. That's your understanding.</p> <p>20 Correct?</p> <p>21 A. As I read it today, I guess I</p> <p>22 would draw that conclusion. However, I don't</p> <p>23 remember it based upon 1999.</p> <p>24 Q. Okay. Fair enough. Now, if</p> <p>25 you turn to the next page, there's a section</p>
<p style="text-align: right;">139</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 whatever, you know, and render those</p> <p>3 products. It's -- or they could take hens or</p> <p>4 meat or dead animals along the road or those</p> <p>5 kind of things, and it's a rendering plant in</p> <p>6 which they -- I don't know what they do with</p> <p>7 it, but they make some sort of product out of</p> <p>8 it.</p> <p>9 Q. Okay. I think that's enough to</p> <p>10 learn about that.</p> <p>11 A. I don't know.</p> <p>12 Q. Now, if you look at the second</p> <p>13 column on page 1, there's a short middle</p> <p>14 paragraph that says, "The export business the</p> <p>15 industry had in 1995 has been cut in half..."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. "...and so far in 1999 the</p> <p>19 breakers increase in volume is half of what</p> <p>20 it has been the past few years."</p> <p>21 Do you see that?</p> <p>22 A. Uh-huh.</p> <p>23 Q. That's a concept we talked</p> <p>24 about earlier, changes in the industry --</p> <p>25 A. Uh-huh.</p>	<p style="text-align: right;">141</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 titled, "HAVE WE REALIZED THE YEAR'S BEST</p> <p>3 PRICE PERIOD." And that is a section that</p> <p>4 you would have drafted. Correct?</p> <p>5 A. Yes.</p> <p>6 Q. And in the second paragraph you</p> <p>7 say, "By adjusting the supply side of the</p> <p>8 business, we can make sure that prices are</p> <p>9 above the 70-cent level."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. "Do your part in early molting</p> <p>13 and early slaughter."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. How does early molting affect</p> <p>17 the supply side of the business?</p> <p>18 A. An egg farmer will have within</p> <p>19 his planned schedule this flock of hens, when</p> <p>20 they reach a certain age, that we are going</p> <p>21 to put them into a molt. By putting them</p> <p>22 into a molt, that rejuvenates their</p> <p>23 productive system. It takes off some of</p> <p>24 their body fat. It allows them a period of</p> <p>25 rest and then they come back into production</p>

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<p style="text-align: right;">142</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 producing better quality eggs and extends the</p> <p>3 lifecycle of the hen.</p> <p>4 So if a company had a planned</p> <p>5 schedule to molt, just pick any number, at</p> <p>6 65 weeks of age, we would say to them that it</p> <p>7 would help the industry if you molted at</p> <p>8 63 weeks of age. So in other words, do it a</p> <p>9 couple weeks earlier because then you -- the</p> <p>10 period of time that the hen is out of</p> <p>11 production is still the same, but if you do</p> <p>12 it a couple of weeks earlier, we will recover</p> <p>13 from some of these terrible economic indices</p> <p>14 we're in at an earlier date than we would.</p> <p>15 Q. Is it also that the lifecycle</p> <p>16 of the hen will end at an earlier date, the</p> <p>17 egg laying lifecycle of the hen?</p> <p>18 A. Not when you molt. It actually</p> <p>19 extends the life -- the lifecycle, yeah.</p> <p>20 Q. But if you move up the molting?</p> <p>21 A. No, that doesn't -- well, I</p> <p>22 think that's an individual farm because</p> <p>23 they're working on schedules of when they are</p> <p>24 going to bring the next flock of pullets in.</p> <p>25 They've already ordered those started</p>	<p style="text-align: right;">144</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 section is you're reporting what responses</p> <p>3 you had learned about to the plant.</p> <p>4 A. Yes.</p> <p>5 Q. Right?</p> <p>6 So you report, for example,</p> <p>7 that a large UEP egg producer member had</p> <p>8 called to say their company was doing their</p> <p>9 part to follow the plan. Right?</p> <p>10 A. Yes.</p> <p>11 Q. In the second paragraph you say</p> <p>12 another member called to report that they</p> <p>13 were doing their part, and you explain what</p> <p>14 they had reported, too. Correct?</p> <p>15 A. I'm trying to say there in the</p> <p>16 second paragraph that a member called and</p> <p>17 said they were trying to sell their hens</p> <p>18 early, but the fowl buyer was pushing dates</p> <p>19 back so he couldn't do it.</p> <p>20 Q. Right. Okay. And then you</p> <p>21 conclude by saying we still have a lot of</p> <p>22 work to do basically, correct, to meet the</p> <p>23 goals of hen disappearance that Mr. Looper is</p> <p>24 suggesting?</p> <p>25 A. Right.</p>
<p style="text-align: right;">143</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 pullets. So just when they make a decision</p> <p>3 to move that up two weeks, they have already</p> <p>4 got those pullets growing and they can't</p> <p>5 change that. So, no, it doesn't necessarily</p> <p>6 end the life of the hen earlier.</p> <p>7 Q. So by this -- by this point in</p> <p>8 April of 1999, UEP had put forward some sort</p> <p>9 of a supply adjustment plan. Correct?</p> <p>10 MS. LEVINE: Object to the form</p> <p>11 of the question.</p> <p>12 THE WITNESS: I'd have to --</p> <p>13 BY MR. OLSON:</p> <p>14 Q. Why don't you look at page 4.</p> <p>15 The page numbers are at the top.</p> <p>16 A. Okay.</p> <p>17 Q. This refers to there being a</p> <p>18 supply adjustment plan. Correct?</p> <p>19 A. Yes.</p> <p>20 Q. This section titled, "RESPONSE</p> <p>21 TO SUPPLY ADJUSTMENT PLAN," that would have</p> <p>22 been something you would have drafted.</p> <p>23 Correct?</p> <p>24 A. Yes.</p> <p>25 Q. What you're doing in this</p>	<p style="text-align: right;">145</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Okay. Put that aside.</p> <p>3 - - -</p> <p>4 (Exhibit Gregory-8, UEP Meeting</p> <p>5 Committee Las Vegas - April 27, 1999</p> <p>6 Minutes, Bates UE0297497, was marked</p> <p>7 for identification.)</p> <p>8 - - -</p> <p>9 BY MR. OLSON:</p> <p>10 Q. Let me hand you what we've</p> <p>11 marked Gregory-8. This is a document Bates</p> <p>12 stamped UE0297497.</p> <p>13 Mr. Gregory, can you identify</p> <p>14 this as the minutes of a UEP Marketing</p> <p>15 Committee meeting on April 27, 1999?</p> <p>16 A. Yes.</p> <p>17 Q. And you had taken those</p> <p>18 minutes. Correct?</p> <p>19 A. Yes.</p> <p>20 Q. At that Marketing Committee,</p> <p>21 the chairman, Dolph Baker had presented for</p> <p>22 consideration a supply adjustment program</p> <p>23 adopted by USEM. Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Now, what role did USEM have in</p>

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<p style="text-align: right;">146</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 adopting supply adjustment programs?</p> <p>3 A. Well, at this particular time</p> <p>4 United States Egg Marketers was not -- had no</p> <p>5 association with the United Egg Producers and</p> <p>6 this -- and the United States Egg Marketers</p> <p>7 is a Capper-Volstead cooperative. And</p> <p>8 evidently what they have done is they had</p> <p>9 adopted some sort of a supply adjustment</p> <p>10 program and had evidently asked UEP if they</p> <p>11 would do something similar.</p> <p>12 Q. All right. And Mr. Baker</p> <p>13 recommended that UEP do that and that a plan</p> <p>14 be recommended to the UEP membership. And</p> <p>15 that motion was carried. Correct?</p> <p>16 MS. LEVINE: Objection to form</p> <p>17 of the question.</p> <p>18 THE WITNESS: The minutes do say</p> <p>19 so.</p> <p>20 BY MR. OLSON:</p> <p>21 Q. What's a supply demand alert?</p> <p>22 A. It's -- I guess it's just a</p> <p>23 terminology that, you know, we have a, hey,</p> <p>24 alert, we got too many eggs.</p> <p>25 Q. And who would issue that alert?</p>	<p style="text-align: right;">148</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Brown at an Urner Barry conference announcing</p> <p>3 that the industry was very likely headed for</p> <p>4 a long-term period of unprofitable prices</p> <p>5 unless the industry does something to address</p> <p>6 the over-supply problem. Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Who is Mr. Brown, do you</p> <p>9 recall?</p> <p>10 A. He is -- I believe his title is</p> <p>11 president or vice president of Urner Barry</p> <p>12 Publications. And they are the ones that</p> <p>13 make the market quote for eggs and they make</p> <p>14 market quotes for other commodities as well.</p> <p>15 But -- and then annually in April they have a</p> <p>16 conference in Las Vegas and there's egg</p> <p>17 people, there's chicken people, and beef</p> <p>18 people, you know, a variety of attendees.</p> <p>19 Q. Now, do you recall at this time</p> <p>20 or about this time a concern that the</p> <p>21 industry was heading into a long-term period</p> <p>22 of unprofitable prices?</p> <p>23 A. I apologize to you because this</p> <p>24 is 1999 and it's now 2013, and I'm 72 years</p> <p>25 old and my memory of 1999 is not that good.</p>
<p style="text-align: right;">147</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. You're going to have to show me</p> <p>3 the document, I think. I can't speculate on</p> <p>4 who might --</p> <p>5 - - -</p> <p>6 (Exhibit Gregory-9, 5/3/99</p> <p>7 United Voices, Bates CM00406453 -</p> <p>8 CM00406460, was marked for</p> <p>9 identification.)</p> <p>10 - - -</p> <p>11 BY MR. OLSON:</p> <p>12 Q. I was seeing if we could skip</p> <p>13 it, but I will do that. This is Gregory-9</p> <p>14 I've handed you. It's Bates stamped</p> <p>15 CM00406453 through 460.</p> <p>16 Can you identify this as United</p> <p>17 Voices that you edited dated May 3, 1999?</p> <p>18 A. Yes.</p> <p>19 Q. Now, just to start at the cover</p> <p>20 page, this discusses -- this reports about</p> <p>21 what the UEP Marketing Committee had done in</p> <p>22 the -- in that April 27, 1999, meeting that</p> <p>23 we just looked at the minutes of. Correct?</p> <p>24 A. Yes.</p> <p>25 Q. Now, this refers to a Rick</p>	<p style="text-align: right;">149</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. So independently of this</p> <p>3 document you don't recall that concern?</p> <p>4 A. You know, I will accept what's</p> <p>5 in the document. Ask me for memory of other</p> <p>6 things that -- I'm sorry, I can't do that.</p> <p>7 Q. Fair enough.</p> <p>8 All right. Now, you would have</p> <p>9 drafted this section at the beginning of</p> <p>10 Gregory-9. Correct?</p> <p>11 A. Yes.</p> <p>12 Q. And at the bottom in bold all</p> <p>13 caps you wrote, "CONSIDERING THESE NUMBERS,</p> <p>14 DON'T YOU AGREE THAT IT IS GOOD BUSINESS TO</p> <p>15 MANAGE THE SUPPLY SIDE NOW."</p> <p>16 A. Yes.</p> <p>17 Q. Now, if you would turn to the</p> <p>18 second page, there's a heading that says,</p> <p>19 "EXPORT COMMITMENT."</p> <p>20 A. Yes.</p> <p>21 Q. And it refers to UEP's Export</p> <p>22 Committee?</p> <p>23 A. Yes.</p> <p>24 Q. Did you have a responsibility</p> <p>25 for UEP's Export Committee at that time?</p>

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<p style="text-align: right;">150</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. You know, I don't recall, but I</p> <p>3 don't know who else it would have been</p> <p>4 either.</p> <p>5 Q. What sort of programs would the</p> <p>6 UEP Export Committee develop at this time?</p> <p>7 A. UEP did not entertain or fill</p> <p>8 export orders. The only purpose of this</p> <p>9 Export Committee was that if the U.S. Egg</p> <p>10 Marketers were to take an export, they would</p> <p>11 then communicate to UEP we'd like for you to</p> <p>12 take a certain share of that export. And so</p> <p>13 the UEP Export Committee would take that</p> <p>14 request and consider whether to participate</p> <p>15 or not.</p> <p>16 Q. Now, were there companies that</p> <p>17 were members of both UEP --</p> <p>18 A. Yes.</p> <p>19 Q. Let me just finish.</p> <p>20 -- both UEP and USEM at this</p> <p>21 time?</p> <p>22 A. Yes.</p> <p>23 Q. Why would a member be -- why</p> <p>24 would a company be a member of both</p> <p>25 generally?</p>	<p style="text-align: right;">152</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. If you just look at page -- the</p> <p>3 third to the last page, titled, "SCHRADER'S</p> <p>4 EGG PRICE MEMO."</p> <p>5 A. Yes.</p> <p>6 Q. At the top the memo says, "A</p> <p>7 supply demand alert calling for a cut in</p> <p>8 flock size was issued by UEP on March 12."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. So the demand/supply alerts</p> <p>12 would be issued by UEP. Is that right?</p> <p>13 A. Yes.</p> <p>14 Q. You can put that aside.</p> <p>15 - - -</p> <p>16 (Exhibit Gregory-10, UEP</p> <p>17 Marketing Committee Meeting Conference</p> <p>18 Call -- May 26, 1999 Minutes, Bates</p> <p>19 UE0220918 & UE0220919, was marked for</p> <p>20 identification.)</p> <p>21 - - -</p> <p>22 BY MR. OLSON:</p> <p>23 Q. Let me hand you what we've</p> <p>24 marked as Gregory-10. This is a document</p> <p>25 Bates stamped UE0220918 through 19. And I'll</p>
<p style="text-align: right;">151</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 MS. LEVINE: Object to the form</p> <p>3 of the question. To the extent you</p> <p>4 know the answer.</p> <p>5 THE WITNESS: As I recall about</p> <p>6 this time U.S. Egg Marketers only had</p> <p>7 about 10, 11 members. And there -- so</p> <p>8 there were people that belonged to</p> <p>9 U.S. -- that were UEP members that</p> <p>10 belonged to U.S. Egg Marketers because</p> <p>11 they wanted to be participants in the</p> <p>12 activities of U.S. Egg Marketers as</p> <p>13 exports as well as other cooperative</p> <p>14 things they did.</p> <p>15 BY MR. OLSON:</p> <p>16 Q. This Gregory-9 indicates that</p> <p>17 at this time the UEP Export Committee was</p> <p>18 developing a program to secure export</p> <p>19 commitment pledges from the industry.</p> <p>20 Correct?</p> <p>21 A. Yeah. I think that's what it</p> <p>22 says, yes.</p> <p>23 Q. And that commitment pledge</p> <p>24 forms had been sent to UEP members. Right?</p> <p>25 A. It does say that, yes.</p>	<p style="text-align: right;">153</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 ask you if you can identify this as the</p> <p>3 minutes of a UEP Marketing Committee meeting</p> <p>4 conference call on May 26, 1999, that you</p> <p>5 recorded?</p> <p>6 A. Yes.</p> <p>7 Q. Now, why would the -- just</p> <p>8 generally, why would a committee like the</p> <p>9 Marketing Committee hold a conference call as</p> <p>10 opposed to an in-person meeting?</p> <p>11 A. It's not unusual -- as issues</p> <p>12 come up, it's not unusual for the Board of</p> <p>13 Directors to have a conference call. It's</p> <p>14 not unusual for any of the committees to have</p> <p>15 conference calls. As issues came about that</p> <p>16 needed more immediate attention, you would</p> <p>17 have a conference call. It was far less</p> <p>18 expensive than getting on the plane and</p> <p>19 traveling around the country to meet many</p> <p>20 times a year.</p> <p>21 Q. All right. And this refers to</p> <p>22 a motion being brought forward by Mr. Dean to</p> <p>23 recommend to the membership that the 60-week</p> <p>24 molt program and early slaughter program</p> <p>25 continue for an additional five weeks. Do</p>

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<p style="text-align: right;">154</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 you see that?</p> <p>3 A. Yes, I do.</p> <p>4 Q. And that motion was carried.</p> <p>5 Correct?</p> <p>6 A. Yes.</p> <p>7 Q. And you were instructed to</p> <p>8 notify the members of that recommended</p> <p>9 program. Correct?</p> <p>10 A. Yes.</p> <p>11 Q. And you were instructed to</p> <p>12 notify them by something referred to as the</p> <p>13 daily fax program. Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. What is that?</p> <p>16 A. Back years ago, we did have</p> <p>17 a -- you know, a market information on a</p> <p>18 daily basis that was faxed out.</p> <p>19 Q. And that was one way you'd</p> <p>20 communicate these programs to the membership.</p> <p>21 Correct?</p> <p>22 A. Right.</p> <p>23 Q. Also you were instructed to use</p> <p>24 a special mailing. Do you see that?</p> <p>25 A. I see that.</p>	<p style="text-align: right;">156</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 identification.)</p> <p>3 - - -</p> <p>4 BY MR. OLSON:</p> <p>5 Q. I'll hand you what we've marked</p> <p>6 Gregory-11. This is document Bates stamped</p> <p>7 CM0405666 through 673. I read the Bates</p> <p>8 stamp wrong. I apologize. I'm going to hand</p> <p>9 you -- if you could set that one aside. Let</p> <p>10 me hand you another --</p> <p>11 A. I handed it back to you.</p> <p>12 Q. Oh, you did?</p> <p>13 A. Yes.</p> <p>14 - - -</p> <p>15 (Exhibit Gregory-12, 6/7/99</p> <p>16 United Voices, Bates CM0405666 -</p> <p>17 CM0405673, was marked for</p> <p>18 identification.)</p> <p>19 - - -</p> <p>20 BY MR. OLSON:</p> <p>21 Q. Now I'm going to see if I can</p> <p>22 figure this out. I'm going to hand you a</p> <p>23 document marked as Gregory-12 which should</p> <p>24 have the Bates stamp that I just read.</p> <p>25 Everyone else can keep Exhibit 11 with them.</p>
<p style="text-align: right;">155</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Do you know what that refers</p> <p>3 to?</p> <p>4 A. I assume that -- I assume that</p> <p>5 means that I'm supposed to do that in a</p> <p>6 mailing announcing what this recommendation</p> <p>7 is.</p> <p>8 Q. Is that another way that you</p> <p>9 were instructed from time to time to notify</p> <p>10 members of plans adopted by the committee?</p> <p>11 MS. LEVINE: Object to the form</p> <p>12 of the question.</p> <p>13 THE WITNESS: I think I -- I</p> <p>14 think I acknowledged that earlier.</p> <p>15 BY MR. OLSON:</p> <p>16 Q. And they -- also you were</p> <p>17 instructed to feature it in the next United</p> <p>18 Voices. Correct?</p> <p>19 A. Yes.</p> <p>20 Q. All right. You can put that</p> <p>21 aside.</p> <p>22 - - -</p> <p>23 (Exhibit Gregory-11, 8/2/99</p> <p>24 United Voices, Bates UE0064456 -</p> <p>25 UE0064459, was marked for</p>	<p style="text-align: right;">157</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 MS. LEVINE: Is Exhibit 11 --</p> <p>3 MS. TURNER-DODGE: Yes, that's</p> <p>4 this one.</p> <p>5 MR. OLSON: So this what I'm</p> <p>6 handing now is 12, and I'll clear it</p> <p>7 up for the record.</p> <p>8 MS. LEVINE: Another document.</p> <p>9 BY MR. OLSON:</p> <p>10 Q. So let's start with Exhibit --</p> <p>11 Gregory Exhibit 12 which is -- has the Bates</p> <p>12 stamps I just read. And, Mr. Gregory, can</p> <p>13 you identify Exhibit 12 as a United Voices</p> <p>14 from June 7, 1999, that you edited?</p> <p>15 A. Yes.</p> <p>16 Q. On the first page there's a</p> <p>17 section that says, "A MESSAGE FROM THE</p> <p>18 MARKETING COMMITTEE."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And there you're reporting to</p> <p>22 the membership what the Marketing Committee</p> <p>23 did in the conference call that we looked at</p> <p>24 in Gregory-10. Correct?</p> <p>25 A. Maybe I'm not reading it,</p>

40 (Pages 154 to 157)

<p style="text-align: right;">158</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 because I don't see where it says something</p> <p>3 about they met by conference call.</p> <p>4 Q. Well, it refers to the UEP</p> <p>5 Marketing Committee meeting on May 26th. Do</p> <p>6 you see that?</p> <p>7 A. Yes, I see that.</p> <p>8 Q. All right.</p> <p>9 A. So that is referring to that</p> <p>10 conference call. Okay.</p> <p>11 Q. So at the bottom you write,</p> <p>12 "The Committee applauded the actions taken by</p> <p>13 the members in following the early molt</p> <p>14 program..."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. "...but cautioned that these</p> <p>18 hens will soon be back in production and</p> <p>19 likely producing more eggs than can be</p> <p>20 marketed at profitable prices." Right?</p> <p>21 A. Yes.</p> <p>22 Q. So, in other words, what you're</p> <p>23 reporting is the committee said we applaud</p> <p>24 the members following the program we put in</p> <p>25 place, but it was just a short-term fix,</p>	<p style="text-align: right;">160</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Now, if we -- we'll just really</p> <p>3 quickly, let me hand you 11, Gregory-11,</p> <p>4 which is Bates stamped UE0064456 through</p> <p>5 64459.</p> <p>6 Can you identify this as a</p> <p>7 United Voices from August 2, 1999?</p> <p>8 A. Yes.</p> <p>9 MR. OLSON: You know, we have to</p> <p>10 change tapes, so why don't we take a</p> <p>11 quick break.</p> <p>12 VIDEOGRAPHER: The time is</p> <p>13 11:54. We're going off the record.</p> <p>14 - - -</p> <p>15 (A recess was taken.)</p> <p>16 - - -</p> <p>17 VIDEOGRAPHER: The time is</p> <p>18 12:39. This is tape number three.</p> <p>19 BY MR. OLSON:</p> <p>20 Q. All right, Mr. Gregory, we're</p> <p>21 looking at Gregory Exhibit 11, the August</p> <p>22 20 -- August 2, 1999, United Voices. I'd</p> <p>23 like to turn to the second page, there's a</p> <p>24 heading on the bottom right column that's</p> <p>25 titled, "ROLLER COASTER EGG PRICE QUOTES."</p>
<p style="text-align: right;">159</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 there's more we need to do. Right?</p> <p>3 MS. LEVINE: Object to the form</p> <p>4 of the question.</p> <p>5 BY MR. OLSON:</p> <p>6 Q. Would that be a fair summary?</p> <p>7 A. State it again?</p> <p>8 Q. We applaud the actions that</p> <p>9 members took --</p> <p>10 A. Yes.</p> <p>11 Q. -- in following the program,</p> <p>12 but it was a short-term fix and there's more</p> <p>13 we need to do?</p> <p>14 A. Yes.</p> <p>15 Q. And then you put forward the</p> <p>16 action plan that the committee had</p> <p>17 recommended. Right?</p> <p>18 A. Yes.</p> <p>19 MS. LEVINE: Steig, I don't know</p> <p>20 if you read the Bates stamp of</p> <p>21 Gregory-12 into the record.</p> <p>22 MR. OLSON: I did. I think</p> <p>23 that's when we realized it was the</p> <p>24 wrong one.</p> <p>25 BY MR. OLSON:</p>	<p style="text-align: right;">161</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Why don't you go ahead and just review that</p> <p>3 section, please, spills over to the next</p> <p>4 page.</p> <p>5 A. (Reviewing document.) Okay.</p> <p>6 Q. So what's going on at this time</p> <p>7 is that egg prices had increased to some</p> <p>8 degree. Correct?</p> <p>9 A. What we're trying to say is</p> <p>10 that this is -- this amount of change in such</p> <p>11 a short period of time is really unusual, and</p> <p>12 why is that.</p> <p>13 Q. The change you're referring to</p> <p>14 is a spike in price?</p> <p>15 A. Yes.</p> <p>16 Q. The question is, is it a</p> <p>17 short-term thing or has the market really</p> <p>18 corrected itself. Right?</p> <p>19 A. Yes.</p> <p>20 Q. You report that the -- that</p> <p>21 producers at a Chicago meeting July 15th had</p> <p>22 decided to survey the membership about</p> <p>23 whether the industry would participate in a</p> <p>24 program to address the supply issue. Right?</p> <p>25 A. That's what it says, yes.</p>

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162	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Say watch for a survey in the</p> <p>3 mail and it says, "You will also be asked if</p> <p>4 you would participate in a supply adjustment</p> <p>5 program." Right?</p> <p>6 A. Yes.</p> <p>7 Q. And then you lay out four</p> <p>8 suggestions that Don Bell had made that would</p> <p>9 lead to corrections in the nation's flock</p> <p>10 size. Correct?</p> <p>11 MS. LEVINE: Object to the form</p> <p>12 of the question.</p> <p>13 THE WITNESS: That's what I</p> <p>14 write, yes.</p> <p>15 BY MR. OLSON:</p> <p>16 Q. Do you recall when and where</p> <p>17 Mr. Bell made those suggestions?</p> <p>18 A. I do not.</p> <p>19 Q. Do you recall discussing those</p> <p>20 suggestions with Mr. Bell?</p> <p>21 A. No, I did not.</p> <p>22 Q. You know that you didn't or you</p> <p>23 don't recall?</p> <p>24 A. I don't -- I guess the correct</p> <p>25 answer would be recall -- I don't recall, but</p>	164	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 CM0405665, was marked for</p> <p>3 identification.)</p> <p>4 - - -</p> <p>5 BY MR. OLSON:</p> <p>6 Q. That one was from August and I</p> <p>7 skipped over one from July I just wanted to</p> <p>8 ask you briefly about, so let me hand that to</p> <p>9 you now. It's marked Gregory Exhibit 13.</p> <p>10 This is Bates stamped CM00405660 through</p> <p>11 405665.</p> <p>12 Can you identify it as a</p> <p>13 July 5, 1999, United Voices that you edited?</p> <p>14 A. Yes.</p> <p>15 Q. And the initial heading titled,</p> <p>16 "INDUSTRY LOSING \$25 MILLION PER DAY."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And there's -- the second</p> <p>20 sentence under the bullet says, "Since</p> <p>21 October 1998, UEP has been urging the</p> <p>22 industry to manage the egg supply to meet the</p> <p>23 market demand and warned of the impact of</p> <p>24 expansion without an increasing demand."</p> <p>25 Do you see that?</p>
163	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 I don't think I ever did.</p> <p>3 Q. So Mr. Bell makes various</p> <p>4 suggestions, the fourth is that "An</p> <p>5 industry-wide policy of a minimum floor space</p> <p>6 allowance would result in a more ideal nation</p> <p>7 flock size."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And you agreed with that.</p> <p>11 Correct?</p> <p>12 MS. LEVINE: Object to the form</p> <p>13 of the question.</p> <p>14 THE WITNESS: I think that what</p> <p>15 he's analyzed there is probably true.</p> <p>16 BY MR. OLSON:</p> <p>17 Q. And part of what he's analyzed</p> <p>18 there is if a 48 square inch minimum space</p> <p>19 allowance was adopted, millions of extra</p> <p>20 birds would be eliminated. Correct?</p> <p>21 A. That's what he says.</p> <p>22 Q. You can put that aside.</p> <p>23 - - -</p> <p>24 (Exhibit Gregory-13, 7/5/99</p> <p>25 United Voices, Bates CM0405660 -</p>	165	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall where that</p> <p>4 October 1998 date comes from? In other</p> <p>5 words, why this started in October 1998?</p> <p>6 A. I don't. I'm guessing that I</p> <p>7 was using the USDA layer inventory of</p> <p>8 October 1998.</p> <p>9 MS. LEVINE: Mr. Gregory, for</p> <p>10 this record, nobody wants you to</p> <p>11 guess. So if you're guessing, tell us</p> <p>12 because we don't want you to guess.</p> <p>13 BY MR. OLSON:</p> <p>14 Q. Exactly. Fair enough. So I</p> <p>15 agree. Let us know if you have to guess and</p> <p>16 we usually don't want you to.</p> <p>17 All right. You -- underneath</p> <p>18 there, there is an editorial written by you</p> <p>19 called, "RECORD LOW EGG PRICES." Correct?</p> <p>20 A. Yes.</p> <p>21 Q. Could you, please, just briefly</p> <p>22 review that section.</p> <p>23 A. (Reviewing document.) Yes.</p> <p>24 Q. So this is an editorial that</p> <p>25 you wrote. Correct?</p>

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<p style="text-align: right;">166</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. You're talking about that it's</p> <p>4 really dire times in the egg industry at this</p> <p>5 time. Correct?</p> <p>6 A. Yes.</p> <p>7 Q. And, in fact, should we</p> <p>8 understand this correctly that you're saying</p> <p>9 that the current egg price period in</p> <p>10 July 1999 was perhaps the worst in all of</p> <p>11 your years in the egg business? In the first</p> <p>12 sentence you say, "Probably most people in</p> <p>13 the egg production business today weren't</p> <p>14 around in the 1960's to have experienced the</p> <p>15 worst egg price period until the current</p> <p>16 situation."</p> <p>17 A. Yes.</p> <p>18 Q. So in other words, what's going</p> <p>19 on in the middle of 1999 is perhaps the worst</p> <p>20 eggs price period in your history in the egg</p> <p>21 business. Right?</p> <p>22 MS. LEVINE: Object to the form</p> <p>23 of the question.</p> <p>24 THE WITNESS: That is what I</p> <p>25 wrote in 1999. I can't remember the</p>	<p style="text-align: right;">168</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 period was the avian influenza?</p> <p>3 A. Yes.</p> <p>4 Q. That caused the death and</p> <p>5 destruction of 7 million hens?</p> <p>6 A. Yes.</p> <p>7 Q. But it bailed out egg farmers</p> <p>8 again because since so many hens disappeared,</p> <p>9 prices went up. Right?</p> <p>10 A. Yes.</p> <p>11 Q. You continue and say for</p> <p>12 another bad period, you say what is going to</p> <p>13 bail us out this time around. Right?</p> <p>14 A. Yes.</p> <p>15 Q. Is it going to be another</p> <p>16 disease or are we going to do something to</p> <p>17 bring supply more in balance with demand.</p> <p>18 Right?</p> <p>19 A. Yes.</p> <p>20 Q. That's the question you posed</p> <p>21 to egg producers at this time. Right?</p> <p>22 A. Uh-huh.</p> <p>23 Q. What did bail out egg producers</p> <p>24 this time around?</p> <p>25 MS. LEVINE: Object to the form</p>
<p style="text-align: right;">167</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 situation.</p> <p>3 BY MR. OLSON:</p> <p>4 Q. And referring to this period in</p> <p>5 the 1960s, now, were you an egg farmer in the</p> <p>6 1960s?</p> <p>7 A. Yes.</p> <p>8 Q. And what you say is you say you</p> <p>9 were an egg producer and what finally bailed</p> <p>10 us out of that period in the '60s was a</p> <p>11 disease, Marek's disease?</p> <p>12 A. Yes.</p> <p>13 Q. And that caused the death of a</p> <p>14 large percentage of flock size. Right?</p> <p>15 A. Yes.</p> <p>16 Q. But it bailed out egg producers</p> <p>17 because prices went back up. Right?</p> <p>18 A. Yes.</p> <p>19 Q. Then you talk about what sounds</p> <p>20 to be another bad period in the egg industry</p> <p>21 in the mid 19 -- mid to late 1980s. Do you</p> <p>22 see that?</p> <p>23 A. Yes.</p> <p>24 Q. Again, prices are extremely</p> <p>25 low. You say what bailed us out of that</p>	<p style="text-align: right;">169</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 of the question. Assumes a fact not</p> <p>3 in evidence.</p> <p>4 THE WITNESS: I don't know.</p> <p>5 BY MR. OLSON:</p> <p>6 Q. It wasn't too many years after</p> <p>7 this that egg producers were selling eggs for</p> <p>8 the highest prices basically in history.</p> <p>9 Right?</p> <p>10 MS. LEVINE: Object to the form</p> <p>11 of the question. Suggests a fact not</p> <p>12 in evidence.</p> <p>13 THE WITNESS: I think you have</p> <p>14 to give me more clear dates than that.</p> <p>15 You have to give me something to show</p> <p>16 that. Again, we're talking about</p> <p>17 something that's 14 years ago.</p> <p>18 BY MR. OLSON:</p> <p>19 Q. But you recall the egg prices</p> <p>20 went up in the early 2000s?</p> <p>21 A. No, I do not without looking at</p> <p>22 something.</p> <p>23 Q. One last question on this one,</p> <p>24 then. The last page -- sorry, page 4,</p> <p>25 there's a heading that says, "EUROPE BANS</p>

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<p style="text-align: right;">170</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 BATTERY CAGES." If you could just briefly</p> <p>3 review that?</p> <p>4 A. Okay. (Reviewing document.)</p> <p>5 Okay.</p> <p>6 Q. In this section you're talking</p> <p>7 about the fact that in Europe there was going</p> <p>8 to be a ban on what are called traditional</p> <p>9 battery cages. Right?</p> <p>10 A. Yes.</p> <p>11 Q. What are battery cages?</p> <p>12 A. That's a terminology that's</p> <p>13 used by the animal activists. We call it a</p> <p>14 conventional cage. It's a cage, a small cage</p> <p>15 that has a small number of birds in it. Wire</p> <p>16 structure.</p> <p>17 Q. And stacked on top of each</p> <p>18 other?</p> <p>19 A. Yes.</p> <p>20 Q. They're stacked on top of each</p> <p>21 other so the hens -- the waste of the hens on</p> <p>22 top, there's always the risk of --</p> <p>23 A. Hopefully not.</p> <p>24 Q. Hopefully not, but sometimes it</p> <p>25 does?</p>	<p style="text-align: right;">172</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 is a humane thing to give a hen, isn't it?</p> <p>3 MS. LEVINE: Object to the form</p> <p>4 of the question. This gentleman is</p> <p>5 not a scientist. He can testify to</p> <p>6 what he knows factually.</p> <p>7 THE WITNESS: I will not -- I</p> <p>8 will not -- with -- as Jan just said,</p> <p>9 I'm not a scientist, so I don't know</p> <p>10 what the scientific -- at this point</p> <p>11 in 1999, I don't know what a</p> <p>12 scientific justification for space per</p> <p>13 hen would be.</p> <p>14 BY MR. OLSON:</p> <p>15 Q. Well, let's just talk about</p> <p>16 sitting here today. You've championed or</p> <p>17 supported legislation recently that would</p> <p>18 give hens even more than 86 square inches.</p> <p>19 Right?</p> <p>20 A. Yes.</p> <p>21 Q. Because that's the humane thing</p> <p>22 to give a hen. Right?</p> <p>23 MS. LEVINE: Object to the form</p> <p>24 of the question. Assumes a fact not</p> <p>25 in evidence. You can answer.</p>
<p style="text-align: right;">171</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Well, there's manure shields to</p> <p>3 try to avoid that.</p> <p>4 Q. So those are going to be phased</p> <p>5 out over a long period of time in Europe.</p> <p>6 Right?</p> <p>7 A. It was --</p> <p>8 Q. 12 years?</p> <p>9 A. Yes. Yes.</p> <p>10 Q. And until the time that they</p> <p>11 are phased out entirely, hens were going to</p> <p>12 get more space. Right?</p> <p>13 A. Yes.</p> <p>14 Q. They were already getting</p> <p>15 70 square inches and they were then going to</p> <p>16 get 86 square inches. Right?</p> <p>17 A. That's what I write, yes.</p> <p>18 Q. And also the hens were going to</p> <p>19 get a perch, a nestbox and a dustbath.</p> <p>20 Right?</p> <p>21 A. Yes.</p> <p>22 Q. Those are all humane things to</p> <p>23 give a hen. Correct?</p> <p>24 A. Yes.</p> <p>25 Q. And, in fact, 86 square inches</p>	<p style="text-align: right;">173</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 THE WITNESS: You know, the</p> <p>3 problem here is that there is a story</p> <p>4 and a reason why this is, but I don't</p> <p>5 know that I have the privilege of</p> <p>6 explaining it.</p> <p>7 MS. LEVINE: Mr. Gregory, he</p> <p>8 asked you a question, you can answer</p> <p>9 it.</p> <p>10 THE WITNESS: But I don't know</p> <p>11 whether I want to answer it with just</p> <p>12 a yes is what I'm saying.</p> <p>13 MS. LEVINE: He's not asking you</p> <p>14 just for a yes. He's asking you an</p> <p>15 open ended question. You can answer</p> <p>16 the question.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. No, that's not true. I was</p> <p>19 asking a yes or no question, we can start</p> <p>20 with that if you have a yes or no to give.</p> <p>21 The question is, is it the</p> <p>22 humane thing to do to give hens at least</p> <p>23 86 square inches --</p> <p>24 MS. LEVINE: Objection to the</p> <p>25 form of the question.</p>

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<p style="text-align: right;">174</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. OLSON:</p> <p>3 Q. -- based on what you know</p> <p>4 today?</p> <p>5 A. I would rely on an answer by</p> <p>6 our Scientific Committee members.</p> <p>7 Q. Do you have an opinion one way</p> <p>8 or the other on -- sitting here today, on</p> <p>9 whether it's humane to give hens cages that</p> <p>10 have things like a perch and a nestbox and a</p> <p>11 dustbath?</p> <p>12 MS. LEVINE: Objection to the</p> <p>13 form of the question. Same objection.</p> <p>14 THE WITNESS: I believe, sitting</p> <p>15 here today, that we could improve the</p> <p>16 welfare of laying hens were we able to</p> <p>17 pass federal legislation that would</p> <p>18 require a housing system that utilized</p> <p>19 those type of things.</p> <p>20 - - -</p> <p>21 (Exhibit Gregory-14, UEP</p> <p>22 Marketing & Price Discovery Committee</p> <p>23 Conference Call November 22, 1999</p> <p>24 Minutes, Bates UE0297249 & UE0297250,</p> <p>25 was marked for identification.)</p>	<p style="text-align: right;">176</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 THE WITNESS: I'd have to</p> <p>3 compare the dating, but that would,</p> <p>4 July --</p> <p>5 BY MR. OLSON:</p> <p>6 Q. Well, actually it's -- I think</p> <p>7 it's in the August one which is 11.</p> <p>8 A. So now this is --</p> <p>9 Q. August 2nd.</p> <p>10 A. Now this is November, so I</p> <p>11 would assume that the dating is -- I can't</p> <p>12 confirm, that's what I'm saying to you.</p> <p>13 Q. You see where it refers to the</p> <p>14 result of a survey conducted in August?</p> <p>15 A. Yes.</p> <p>16 Q. So it sounds like the same</p> <p>17 survey. Right?</p> <p>18 A. Right. Yes.</p> <p>19 Q. It says 30 percent of UEP</p> <p>20 members responded to the survey. Right?</p> <p>21 A. Yes.</p> <p>22 Q. Of those, 95 percent responded</p> <p>23 by saying that UEP should develop a program</p> <p>24 to address the poor economic situation.</p> <p>25 Correct?</p>
<p style="text-align: right;">175</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 BY MR. OLSON:</p> <p>4 Q. All right. Let me hand you</p> <p>5 what we've marked as Gregory-14. This</p> <p>6 document is Bates stamped UE0297249. I'll</p> <p>7 ask if you can identify it as the minutes of</p> <p>8 a UEP Marketing & Price Discovery Committee</p> <p>9 conference call from November 22, 1999, as</p> <p>10 reported by you.</p> <p>11 A. This is what the paper says it</p> <p>12 is, and it shows that I am -- that I reported</p> <p>13 it.</p> <p>14 Q. In the middle of the first page</p> <p>15 you see a reference to Chad Gregory reporting</p> <p>16 the results of an economic survey.</p> <p>17 A. Okay.</p> <p>18 Q. We need you to answer verbally.</p> <p>19 Do you see the reference to that?</p> <p>20 A. I see that.</p> <p>21 Q. That's that survey that UEP had</p> <p>22 been directed to send to members about the</p> <p>23 supply issue. Correct?</p> <p>24 MS. LEVINE: Object to the form</p> <p>25 of the question.</p>	<p style="text-align: right;">177</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Do you -- outside of this</p> <p>4 document, do you have any independent</p> <p>5 recollection of that survey?</p> <p>6 A. No.</p> <p>7 Q. A little down the page, it</p> <p>8 says, "Baker called on Gene Gregory to</p> <p>9 present a hatch reduction program."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. It discusses a program you</p> <p>13 authored, I don't think we need to go over</p> <p>14 it, but it also says, "...after having stated</p> <p>15 that he...", that's you, "...felt the</p> <p>16 industry was ready for a long term</p> <p>17 solution..."</p> <p>18 Do you see that?</p> <p>19 MS. LEVINE: Where is that?</p> <p>20 THE WITNESS: Is that on the</p> <p>21 second -- next page?</p> <p>22 BY MR. OLSON:</p> <p>23 Q. I'm sorry. It's the same</p> <p>24 sentence, second sentence here on the first</p> <p>25 page.</p>

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<p style="text-align: right;">178</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Where are you asking now?</p> <p>3 Q. "Gregory offered the following</p> <p>4 after having..."</p> <p>5 A. Okay. Yes.</p> <p>6 Q. "...stated that he felt the</p> <p>7 industry was ready for a long term</p> <p>8 solution..." Right?</p> <p>9 A. Okay. Yes. Yes, I --</p> <p>10 Q. "...rather than limiting our</p> <p>11 recommendations to the same past short term</p> <p>12 fixes." Right?</p> <p>13 A. Yes.</p> <p>14 Q. So at this time you felt that</p> <p>15 the industry was ready for a long-term</p> <p>16 solution as opposed to the short-term</p> <p>17 programs that had been tried in the past.</p> <p>18 Right?</p> <p>19 MS. LEVINE: Object to the form</p> <p>20 of the question.</p> <p>21 THE WITNESS: That's what the</p> <p>22 document says dated November 22, 1999.</p> <p>23 BY MR. OLSON:</p> <p>24 Q. Document you wrote?</p> <p>25 A. I wrote. I have no -- it's 14</p>	<p style="text-align: right;">180</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. (Reviewing document.)</p> <p>3 Q. All right. So this document</p> <p>4 indicates towards the end that it's being</p> <p>5 prepared in advance of a setting of a 1996</p> <p>6 UEP budget. Do you see the reference to</p> <p>7 that?</p> <p>8 MS. LEVINE: Object to the form</p> <p>9 of the question.</p> <p>10 BY MR. OLSON:</p> <p>11 Q. The second to the last page</p> <p>12 says, "With the setting of the UEP 1996</p> <p>13 budget..." And then at the bottom it says,</p> <p>14 "As we begin to prepare the UEP 1996</p> <p>15 budget..."</p> <p>16 MS. LEVINE: I'm sorry, what's</p> <p>17 the question?</p> <p>18 BY MR. OLSON:</p> <p>19 Q. Do you see those references?</p> <p>20 A. I see the references, yes.</p> <p>21 Q. So that indicates this is being</p> <p>22 prepared sometime in advance of the 1996</p> <p>23 budget. Now, at around that time period you</p> <p>24 were the senior vice president at UEP.</p> <p>25 Correct?</p>
<p style="text-align: right;">179</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 years later, I don't remember.</p> <p>3 Q. So my next question is, do you</p> <p>4 recall why you felt the industry was ready</p> <p>5 for a long-term solution?</p> <p>6 MS. LEVINE: Object to the form</p> <p>7 of the question.</p> <p>8 THE WITNESS: No, I do not</p> <p>9 recall.</p> <p>10 BY MR. OLSON:</p> <p>11 Q. Fair enough. You can put that</p> <p>12 aside.</p> <p>13 - - -</p> <p>14 (Exhibit Gregory-15, UEA</p> <p>15 Producer/Packer Division, Bates</p> <p>16 UE0168906 - UE0168910, was marked for</p> <p>17 identification.)</p> <p>18 - - -</p> <p>19 BY MR. OLSON:</p> <p>20 Q. Let me hand you what I've</p> <p>21 marked Gregory-15. If you could start by</p> <p>22 scanning this document, the first thing I'm</p> <p>23 going to ask you if you can help us identify</p> <p>24 what it is. And for the record, the document</p> <p>25 is Bates stamped UE0168906 through 910.</p>	<p style="text-align: right;">181</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Do you know if you prepared</p> <p>4 this document?</p> <p>5 A. It appears that I did.</p> <p>6 Q. And it's titled "UEA</p> <p>7 PRODUCER/PACKER DIVISION," and it discusses</p> <p>8 the creation of that division. Correct? You</p> <p>9 have to answer verbally.</p> <p>10 A. Yes.</p> <p>11 Q. And you are raising some issues</p> <p>12 with the UEP Board of Directors about that --</p> <p>13 the creation of that division. Correct?</p> <p>14 MS. LEVINE: Object to the form</p> <p>15 of the question.</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. Do you recall the issues</p> <p>19 generally there discussed in this document</p> <p>20 about the creation of that division?</p> <p>21 A. I do have some recollection.</p> <p>22 Q. Well, let's just look at a</p> <p>23 couple points. The first point you raise on</p> <p>24 page 1 says that the UEP Board of Directors</p> <p>25 had authorized the creation of that division</p>

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<p style="text-align: right;">182</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 for the following purposes: Number 1 is, "To</p> <p>3 provide through a Trade Association a means</p> <p>4 by which producers and packers not qualified</p> <p>5 for UEP membership could participate in</p> <p>6 consensus building among all segments of the</p> <p>7 industry."</p> <p>8 Do you see that?</p> <p>9 A. Uh-huh.</p> <p>10 Q. Is that consistent with your</p> <p>11 recollection?</p> <p>12 A. Yes.</p> <p>13 Q. And number 2 refers to, to</p> <p>14 accommodate producers and packers that had</p> <p>15 been members of the Egg Association of</p> <p>16 America. What's going on there? What was</p> <p>17 the Egg Association of America?</p> <p>18 A. You want me to tell you the</p> <p>19 full story?</p> <p>20 Q. Not really. Can you even tell</p> <p>21 us the short version?</p> <p>22 A. No.</p> <p>23 Q. Okay.</p> <p>24 A. There is a story here of how</p> <p>25 this all came about, but you don't want me to</p>	<p style="text-align: right;">184</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 these people in the northeast so they would</p> <p>3 have a means by which they belong to an</p> <p>4 association. And so it was, therefore,</p> <p>5 called the Producer/Packer Division of the</p> <p>6 United Egg Association.</p> <p>7 Q. And that division is still in</p> <p>8 existence today. Correct?</p> <p>9 A. Yes, it is.</p> <p>10 Q. And UEP managed it from its</p> <p>11 creation until today. Correct?</p> <p>12 A. Yes.</p> <p>13 Q. If you look at the last page,</p> <p>14 there's a list of positives. The first one</p> <p>15 listed is "EAA..." I assume that's the Egg</p> <p>16 Association of America, "...has closed their</p> <p>17 office." Do you recall why you saw that as</p> <p>18 positive?</p> <p>19 A. Yes.</p> <p>20 Q. Can you briefly tell us why?</p> <p>21 A. Yeah, because there was a</p> <p>22 conflict going on between their manager and</p> <p>23 his goal to build an empire there and UEP.</p> <p>24 And as well as it was irritating to egg</p> <p>25 producers.</p>
<p style="text-align: right;">183</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 tell you all those things, so I'll just say I</p> <p>3 recognize the document.</p> <p>4 Q. Okay. I'm torn --</p> <p>5 A. That's a bad way to defend</p> <p>6 yourself.</p> <p>7 Q. It's just because we have</p> <p>8 limited time.</p> <p>9 A. What's that?</p> <p>10 Q. So why don't you tell us the</p> <p>11 story as briefly as you can.</p> <p>12 A. Well, UEP, it used to be an</p> <p>13 organization of five regionals, separate</p> <p>14 cooperatives, and there had been an</p> <p>15 association representing the northeast</p> <p>16 producers. And there was a -- as a fight</p> <p>17 going on between the manager there and so</p> <p>18 forth. And there was a break up of the</p> <p>19 organization. There were people that we</p> <p>20 discovered at UEP that in the northeast</p> <p>21 region that we didn't believe qualified, they</p> <p>22 were in the egg business, you know, but</p> <p>23 they -- we didn't think they qualified for</p> <p>24 UEP. So we were creating a new division of</p> <p>25 the United Egg Association to accommodate</p>	<p style="text-align: right;">185</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. So it's a good thing for UEP to</p> <p>3 bring these people into the UEP umbrella as</p> <p>4 opposed to --</p> <p>5 A. It was a good thing for egg</p> <p>6 farmers.</p> <p>7 MS. LEVINE: Mr. Gregory, you</p> <p>8 have to wait until Mr. Olson finishes</p> <p>9 the question for two reasons. Number</p> <p>10 one, it's very hard for the</p> <p>11 transcriber; and then number two,</p> <p>12 you're quicker than I and I can't get</p> <p>13 my objection on the record which is</p> <p>14 important. So if you could just take</p> <p>15 ten seconds, it would help everybody.</p> <p>16 Okay?</p> <p>17 BY MR. OLSON:</p> <p>18 Q. And then number 3, you referred</p> <p>19 to also an Allied Division, under point 3?</p> <p>20 A. Yes.</p> <p>21 Q. What was the UEA Allied</p> <p>22 Division?</p> <p>23 A. Those are companies that supply</p> <p>24 products and services to the egg industry.</p> <p>25 Q. And were they being brought --</p>

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186	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 was that division being created at the same</p> <p>3 time as well?</p> <p>4 MS. LEVINE: Object to the form</p> <p>5 of the question.</p> <p>6 THE WITNESS: The UEA Allied</p> <p>7 Division, I think, was created in</p> <p>8 1995. Now --</p> <p>9 BY MR. OLSON:</p> <p>10 Q. And you say as a positive that</p> <p>11 "We have a chance with the creation of the</p> <p>12 UEA Producer/Packer Division and the Allied</p> <p>13 Division to bring all segments of the</p> <p>14 industry together for the first time thereby</p> <p>15 creating more unity than ever before."</p> <p>16 Correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that's what occurred.</p> <p>19 Correct?</p> <p>20 MS. LEVINE: Objection to the</p> <p>21 form of the question.</p> <p>22 THE WITNESS: It did bring more</p> <p>23 unity, and there's a reason why, but I</p> <p>24 think you're trying to run off in a</p> <p>25 different direction which is not the</p>	188	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 bankers were interested in it, et cetera. So</p> <p>3 a lot of people were interested in these</p> <p>4 statistics.</p> <p>5 Q. And it's referred to as</p> <p>6 production planning calendar. What does it</p> <p>7 do with regard to production planning?</p> <p>8 A. What we did in the production</p> <p>9 planning calendar was give you some history,</p> <p>10 a ten-year history of what supply/demand</p> <p>11 index was, what the USDA layer inventories</p> <p>12 were, what their Urner Barry prices were, and</p> <p>13 then we try to give you our projection on</p> <p>14 what the flock size was going to be and what</p> <p>15 egg prices would be in the coming year.</p> <p>16 Q. And so that information could</p> <p>17 be used by egg producers to plan their</p> <p>18 production?</p> <p>19 A. Yes.</p> <p>20 Q. And was this a calendar</p> <p>21 sponsored by the UEA Allied Division?</p> <p>22 A. Oh, gosh. I don't know. I'd</p> <p>23 have to guess.</p> <p>24 Q. No need to do that. I was</p> <p>25 going to try to avoid giving you a document,</p>
187	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 reason for it.</p> <p>3 BY MR. OLSON:</p> <p>4 Q. Well, I just -- this is the</p> <p>5 first time that these various different parts</p> <p>6 of the industry have been under one umbrella.</p> <p>7 Correct?</p> <p>8 MS. LEVINE: Objection to the</p> <p>9 form of the question. Assumes a fact</p> <p>10 not in evidence.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. OLSON:</p> <p>13 Q. After the creation of the</p> <p>14 Allied Division, UEP managed it from its</p> <p>15 creation until today. Correct?</p> <p>16 A. Yes.</p> <p>17 Q. Now, are you familiar with a</p> <p>18 type of document called a production planning</p> <p>19 calendar?</p> <p>20 A. Yes.</p> <p>21 Q. What is it used for?</p> <p>22 A. It has a lot of statistics in</p> <p>23 it. It's an educational piece for not only</p> <p>24 egg farmers, but for -- universities used it</p> <p>25 in its class in their agriculture schools,</p>	189	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 but we might as well.</p> <p>3 - - -</p> <p>4 (Exhibit Gregory-16, United Egg</p> <p>5 Producers 2000 Millennium Production</p> <p>6 Planning Calendar, Bates UE0202747 -</p> <p>7 Ue0202774, was marked for</p> <p>8 identification.)</p> <p>9 - - -</p> <p>10 BY MR. OLSON:</p> <p>11 Q. It's Gregory-16. I'll first</p> <p>12 identify it for the record as UE0202747</p> <p>13 through 774.</p> <p>14 Can you identify this as a</p> <p>15 production planning calendar from the year</p> <p>16 2000?</p> <p>17 A. Yes.</p> <p>18 Q. And if you just look at the</p> <p>19 back page, very last page, do you see that</p> <p>20 it's sponsored by the UEA Allied Division?</p> <p>21 A. Yes.</p> <p>22 Q. And these are not egg</p> <p>23 producers. Right?</p> <p>24 A. No.</p> <p>25 MS. LEVINE: Object to the form</p>

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<p style="text-align: right;">190</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 of the question.</p> <p>3 BY MR. OLSON:</p> <p>4 Q. Do you know why U --</p> <p>5 A. God, I can't remember that.</p> <p>6 MS. LEVINE: Just take ten</p> <p>7 seconds, that's it.</p> <p>8 MR. OLSON: Ten seconds is a</p> <p>9 long time.</p> <p>10 BY MR. OLSON:</p> <p>11 Q. Do you know why the UEA Allied</p> <p>12 Division sponsored that planning calendar?</p> <p>13 A. They provided funding at times</p> <p>14 for a number of different UEP projects.</p> <p>15 Q. Do you have any specific</p> <p>16 recollection why they funded this one?</p> <p>17 A. No, I do not.</p> <p>18 Q. All right. You can put that</p> <p>19 aside.</p> <p>20 - - -</p> <p>21 (Exhibit Gregory-17, 2/1/00</p> <p>22 Letter, Bates UE0065618 - UE0065621,</p> <p>23 was marked for identification.)</p> <p>24 - - -</p> <p>25 BY MR. OLSON:</p>	<p style="text-align: right;">192</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 purchase price of the eggs and that \$0.28</p> <p>3 sales price. Correct?</p> <p>4 MS. LEVINE: Object to the form</p> <p>5 of the question.</p> <p>6 THE WITNESS: Yes. There is an</p> <p>7 explanation for that.</p> <p>8 BY MR. OLSON:</p> <p>9 Q. No, could you explain that to</p> <p>10 us, please? Thank you.</p> <p>11 A. You want me to explain it to</p> <p>12 you?</p> <p>13 Q. Yes, please.</p> <p>14 A. There are some members that are</p> <p>15 willing to participate in an export that may</p> <p>16 live too far from the port, their production</p> <p>17 may be too far, California company versus</p> <p>18 shipping eggs out of Charleston as an</p> <p>19 example. They don't want to ship those eggs</p> <p>20 all across the country. So they will ask UEP</p> <p>21 egg traders to buy those eggs for them that</p> <p>22 they're committed to participate in. It is</p> <p>23 natural there's -- what we're doing, we're</p> <p>24 selling these eggs to ultimately it's going</p> <p>25 to be an egg breaking company in Europe. And</p>
<p style="text-align: right;">191</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Let me hand you what I've</p> <p>3 marked as Gregory-17. This document is Bates</p> <p>4 stamped UE0065618 through 621. And I'll ask</p> <p>5 after a brief review, if you could identify</p> <p>6 it as a letter you wrote to UEP members on</p> <p>7 February 1, 2000, titled, "EXPORT ORDER</p> <p>8 ACCEPTED"?</p> <p>9 A. (Reviewing document.)</p> <p>10 I've read it.</p> <p>11 Q. Can you identify it as a letter</p> <p>12 you wrote on February 1, 2000, to UEP</p> <p>13 members?</p> <p>14 A. Yes.</p> <p>15 Q. You're reporting on a decision</p> <p>16 made by UEP's Export Committee. Correct?</p> <p>17 A. I'm reporting, yes.</p> <p>18 Q. In this case, the exporter is</p> <p>19 going to be USEM. Is that right?</p> <p>20 A. Yes.</p> <p>21 Q. And UEP had agreed to sell the</p> <p>22 eggs to USEM at \$0.28 per dozen. Right?</p> <p>23 A. Yes.</p> <p>24 Q. But there was going to be a</p> <p>25 cost which was the difference between the</p>	<p style="text-align: right;">193</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 so he's wanting to buy breaking stock eggs,</p> <p>3 but we don't want to ship breaking stock</p> <p>4 eggs, we want to ship Grade A quality eggs</p> <p>5 because we don't want a quality problem when</p> <p>6 those eggs reach the European port and have</p> <p>7 them rejected. So we're in the market buying</p> <p>8 what we call Class 1 Grade A eggs or so forth</p> <p>9 and selling them at a breaking stock price.</p> <p>10 That naturally is a cost difference. Also</p> <p>11 what happens is that when an export is in the</p> <p>12 process and you're trying to buy eggs, the</p> <p>13 market most often, not always, the market</p> <p>14 that Urner Barry is reporting now is rising,</p> <p>15 meaning that UEP's traders are having to pay</p> <p>16 more money for those eggs. So as a</p> <p>17 cooperative, when it's all completed, we</p> <p>18 determine what the sale price for all the</p> <p>19 eggs were versus what the cost price for all</p> <p>20 of the eggs were, and then we equalize that</p> <p>21 out amongst all the members participating so</p> <p>22 that they're all treated equally.</p> <p>23 So what we're talking about at</p> <p>24 cost there is the difference between -- or</p> <p>25 the loss, we're talking about what the cost,</p>

<p style="text-align: right;">194</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 what the net effect of it was of the price we</p> <p>3 had to pay for those eggs versus what we sold</p> <p>4 them at.</p> <p>5 Q. And the idea was all the UEP</p> <p>6 members that committed to be a part of this</p> <p>7 program would share that cost among</p> <p>8 themselves. Right?</p> <p>9 A. There were -- no, not</p> <p>10 necessarily. Because there are those that</p> <p>11 ship their own eggs. Only those that shared</p> <p>12 in that cost were those that asked UEP</p> <p>13 traders to buy those eggs for them.</p> <p>14 Q. Just so it's clear, in this</p> <p>15 document you write, "Not everyone can or</p> <p>16 needs to provide eggs but we need every</p> <p>17 member to support the export order by</p> <p>18 agreeing to share in the costs."</p> <p>19 Do you know what that refers</p> <p>20 to?</p> <p>21 A. That is in error. I think</p> <p>22 that -- I think they understood what I'm</p> <p>23 saying, but it's not clear here.</p> <p>24 Q. Got it. If you turn to the</p> <p>25 second page, the last paragraph of your</p>	<p style="text-align: right;">196</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 MS. LEVINE: Object to the form</p> <p>3 of the question.</p> <p>4 - - -</p> <p>5 (Exhibit Gregory-18, 3/6/00</p> <p>6 United Voices, Bates NL 003281 - NL</p> <p>7 003290, was marked for identification.)</p> <p>8 - - -</p> <p>9 BY MR. OLSON:</p> <p>10 Q. Let me hand you what's been</p> <p>11 marked as Gregory-18. For the record, this</p> <p>12 is Bates stamped NL 003281 through 3290. And</p> <p>13 can you identify it as a United Voices</p> <p>14 publication you edited dated March 6, 2000?</p> <p>15 A. Yes.</p> <p>16 Q. And on the first page on the</p> <p>17 right side there's a reference to "Animal</p> <p>18 Welfare." Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And what you report is that the</p> <p>21 Scientific Advisory Committee through the</p> <p>22 chairman had presented their welfare</p> <p>23 recommendations, in other words, they were</p> <p>24 done with at least their initial report.</p> <p>25 Right?</p>
<p style="text-align: right;">195</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 letter, you say, "One final important note!</p> <p>3In order to correct our over-supply</p> <p>4 problem and return to long-term profits for</p> <p>5 the industry, we must maintain our supply</p> <p>6 management programs of reducing the flock</p> <p>7 size and reducing our chick hatch placements</p> <p>8 during 2000."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. You go on and you conclude</p> <p>12 "These export orders are a tremendous benefit</p> <p>13 but certainly not a final solution to our</p> <p>14 over-supply problem." Right?</p> <p>15 A. Yes.</p> <p>16 Q. The point you're making there</p> <p>17 is you might see a short-term price increase</p> <p>18 as a result of this export, but don't be</p> <p>19 misled, we still need to address the</p> <p>20 long-term problem. Correct?</p> <p>21 A. Yes.</p> <p>22 Q. That's a point that you would</p> <p>23 reiterate to the membership from time to</p> <p>24 time. Correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">197</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. No, this is a -- this would</p> <p>3 have been a preliminary report from him</p> <p>4 reporting back from his committee to the</p> <p>5 board. The final document that the</p> <p>6 Scientific Committee made, I believe, was not</p> <p>7 until September 2000.</p> <p>8 Q. This -- what you report in</p> <p>9 Exhibit 18 is "A summary of the scientific</p> <p>10 research will now be presented to a producer</p> <p>11 committee..." Right?</p> <p>12 A. Yes.</p> <p>13 Q. And "The producer committee</p> <p>14 will attempt to draft these scientific</p> <p>15 recommendations into husbandry guidelines for</p> <p>16 the egg industry."</p> <p>17 Do you see that?</p> <p>18 A. Yes. Yes.</p> <p>19 Q. Is that consistent with your</p> <p>20 knowledge?</p> <p>21 A. Yes.</p> <p>22 Q. And it says Carl Lofgren</p> <p>23 established the Producer Committee. Is that</p> <p>24 consistent with your knowledge?</p> <p>25 A. He was chairman of the board at</p>

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<p style="text-align: right;">198</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 the time.</p> <p>3 - - -</p> <p>4 (Exhibit Gregory-19,</p> <p>5 Recommendations for UEP Animal Welfare</p> <p>6 Guidelines, Bates DAY0000029 -</p> <p>7 DAY0000055, was marked for</p> <p>8 identification.)</p> <p>9 - - -</p> <p>10 BY MR. OLSON:</p> <p>11 Q. Let me hand you now what we've</p> <p>12 marked Gregory-19. This is a document</p> <p>13 titled, "RECOMMENDATIONS FOR UEP ANIMAL</p> <p>14 WELFARE GUIDELINES." It's Bates stamped</p> <p>15 DAY0000029 through 55. Why don't you just</p> <p>16 give it a brief look, please.</p> <p>17 A. (Reviewing document.)</p> <p>18 So what's your question?</p> <p>19 Q. I just wanted you to let me</p> <p>20 know when you've given it just a brief</p> <p>21 review. All right. So can you identify this</p> <p>22 as the recommendations for UEP Animal Welfare</p> <p>23 Guidelines submitted by the Scientific</p> <p>24 Advisory Committee in May 2000?</p> <p>25 A. Again, I believe this is a</p>	<p style="text-align: right;">200</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 wrong, I don't believe that this food safety</p> <p>3 section wound up -- I don't believe it was in</p> <p>4 the final document. I don't know.</p> <p>5 Q. If you wanted to find the final</p> <p>6 document that the Scientific Advisory</p> <p>7 Committee submitted, where would you go to</p> <p>8 look for it?</p> <p>9 A. It would look like this except</p> <p>10 it's dated September 2000.</p> <p>11 Q. Where would you go to look for</p> <p>12 it?</p> <p>13 A. I think I still have a copy in</p> <p>14 my office.</p> <p>15 Q. In your office where? Where is</p> <p>16 your office?</p> <p>17 A. Alpharetta, Georgia.</p> <p>18 Q. Is this a home office or an</p> <p>19 office --</p> <p>20 A. It's the only office.</p> <p>21 Q. Is it in your home?</p> <p>22 A. No, no, no. It's the company</p> <p>23 office.</p> <p>24 Q. You still maintain an office at</p> <p>25 UEP?</p>
<p style="text-align: right;">199</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 preliminary report. I believe there were --</p> <p>3 final recommendations were not submitted for</p> <p>4 to us until September 2000.</p> <p>5 Q. And what makes you believe</p> <p>6 that?</p> <p>7 A. You know, I was kind of a staff</p> <p>8 person working with the Scientific Advisory</p> <p>9 Committee, I was working with the Producer</p> <p>10 Committee, the board. I was kind of a</p> <p>11 go-between for all that. And in the process</p> <p>12 of the Scientific Committee work, Jeff</p> <p>13 Armstrong would come and give us some, you</p> <p>14 know, where we're at to this point in time</p> <p>15 and so forth, that kind of thing. But,</p> <p>16 again, this is 2000, I don't know for sure,</p> <p>17 but I don't feel like that this is the final</p> <p>18 recommendations. I don't think that those</p> <p>19 were until September 2000.</p> <p>20 Q. Is there anything in the</p> <p>21 document that indicates that this is</p> <p>22 preliminary to you?</p> <p>23 A. Well, quickly. Now, again,</p> <p>24 this is now 13 years ago. As I quickly scan</p> <p>25 through it, I don't believe, and I could be</p>	<p style="text-align: right;">201</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. You believe there would be a</p> <p>4 copy of this in that office?</p> <p>5 A. There should be a copy there.</p> <p>6 Q. And --</p> <p>7 A. And the reason why I say that</p> <p>8 is after twice people coming in and copying</p> <p>9 all of our documents, I can't be sure that I</p> <p>10 got everything back.</p> <p>11 Q. So you believe that you had a</p> <p>12 copy and that it was collected for being</p> <p>13 produced in this case?</p> <p>14 A. Yes.</p> <p>15 Q. All right. Well, let's look</p> <p>16 through what we have here, and maybe we'll</p> <p>17 ask if there was some -- if you spot other</p> <p>18 things that you think were changed before it</p> <p>19 became final, let us know.</p> <p>20 A. I'm not trying to evade that,</p> <p>21 but I don't want to be wrong about something</p> <p>22 is what I'm saying.</p> <p>23 Q. Right. And if you --</p> <p>24 A. And if I look at this, because</p> <p>25 I've looked at this for so many years, I</p>

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<p style="text-align: right;">202</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 don't know just by spotting it, saying, oh,</p> <p>3 that didn't wound up in the final. I just</p> <p>4 don't want to --</p> <p>5 Q. Then don't worry about that.</p> <p>6 Let's just stick with looking -- I mean, I</p> <p>7 take it that whether there was a later one or</p> <p>8 not, this was a report submitted by the</p> <p>9 Scientific Advisory Committee in May 2000?</p> <p>10 A. Yes.</p> <p>11 Q. So let's look at it now. The</p> <p>12 second page of this report lists the members</p> <p>13 of the Scientific Advisory Committee.</p> <p>14 Correct?</p> <p>15 A. Yes.</p> <p>16 Q. And Barrie Wilcox is listed as</p> <p>17 a member. Correct?</p> <p>18 A. Again, both he and I are</p> <p>19 listed.</p> <p>20 Q. Barrie Wilcox is listed as a</p> <p>21 member of the Scientific Advisory Committee.</p> <p>22 Correct?</p> <p>23 A. I know that's what you're</p> <p>24 saying, but I will swear to God again that he</p> <p>25 was not a member of this committee. Ask</p>	<p style="text-align: right;">204</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. I see that.</p> <p>3 Q. So Mr. Armstrong believes that</p> <p>4 UEP put a producer on the committee. Correct?</p> <p>5 A. He does not.</p> <p>6 Q. Excuse me?</p> <p>7 A. He does not.</p> <p>8 Q. Well, that's what he wrote</p> <p>9 here.</p> <p>10 A. I don't care what he wrote</p> <p>11 there, because Barrie Wilcox nor did I ever</p> <p>12 have a vote in any of this.</p> <p>13 Q. So you don't care what he</p> <p>14 wrote, you don't care who is listed as</p> <p>15 members at the time, you just think it's all</p> <p>16 wrong?</p> <p>17 MS. LEVINE: Object to the form</p> <p>18 of the question. There's no reason to</p> <p>19 badger the witness. He asked and</p> <p>20 answered this several times. It is --</p> <p>21 THE WITNESS: I object to you</p> <p>22 badgering me about that when I told</p> <p>23 you on record several times he wasn't.</p> <p>24 BY MR. OLSON:</p> <p>25 Q. But you don't deny Jeff</p>
<p style="text-align: right;">203</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 anybody on this list and they will --</p> <p>3 Q. What if we ask Jeff Armstrong,</p> <p>4 what would he say?</p> <p>5 A. I'll tell you if you ask</p> <p>6 anybody on the list, they'll tell you the</p> <p>7 same thing I'm telling you.</p> <p>8 Q. So let's look at the first</p> <p>9 page, it's titled, "MISSION STATEMENT FROM</p> <p>10 SCIENTIFIC ADVISORY COMMITTEE ON ANIMAL</p> <p>11 WELFARE."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. It's written by Jeff Armstrong.</p> <p>15 Correct?</p> <p>16 A. Yes.</p> <p>17 Q. Chairman of the committee.</p> <p>18 Correct?</p> <p>19 A. Right.</p> <p>20 Q. Look at the second full</p> <p>21 paragraph, the third to the last sentence.</p> <p>22 Mr. Armstrong writes there that "UEP did</p> <p>23 provide one staff member and a producer as ex</p> <p>24 officio members of the committee."</p> <p>25 Do you see that?</p>	<p style="text-align: right;">205</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Armstrong wrote that he was. Right?</p> <p>3 MS. LEVINE: Object to the form</p> <p>4 of the question. Assumes a fact not</p> <p>5 in evidence. You can answer.</p> <p>6 THE WITNESS: But I mean, this</p> <p>7 is ridiculous.</p> <p>8 BY MR. OLSON:</p> <p>9 Q. I just want to understand the</p> <p>10 basis.</p> <p>11 A. Yeah, but you're going to use</p> <p>12 that against me. The fact of it is I told</p> <p>13 you I don't know how many times, even though</p> <p>14 he might have said that, he's acknowledging</p> <p>15 that Barrie Wilcox and I are there as -- you</p> <p>16 know, in a nonvoting role. In a non --</p> <p>17 Q. Where does he say that?</p> <p>18 A. I'm not even going to answer</p> <p>19 the question. I mean, I've tried to tell you</p> <p>20 I don't know how many times, and I'm not</p> <p>21 going to answer the question.</p> <p>22 Q. I thought you said that Jeff</p> <p>23 Armstrong was acknowledging that Barrie</p> <p>24 Wilcox had a nonvoting role. Does he say</p> <p>25 that anywhere?</p>

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<p style="text-align: right;">206</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. No, he doesn't say that.</p> <p>3 Q. He says he was a member.</p> <p>4 Right?</p> <p>5 MS. LEVINE: Object to the form</p> <p>6 of the question.</p> <p>7 THE WITNESS: You asked me and I</p> <p>8 swore under testimony to not -- to</p> <p>9 tell the truth, right? So how many</p> <p>10 times do I have to tell you the truth</p> <p>11 is what I'm asking?</p> <p>12 BY MR. OLSON:</p> <p>13 Q. I'm just trying to get the</p> <p>14 basis of why you're so sure --</p> <p>15 A. Don't bait me. Don't bait me.</p> <p>16 Q. I'm just trying to understand</p> <p>17 the basis of why you're so sure when the</p> <p>18 membership of the committee was listed at the</p> <p>19 time and Barrie Wilcox was on it, that he</p> <p>20 wasn't actually a member? What's the basis</p> <p>21 for that?</p> <p>22 MS. LEVINE: Object to the form</p> <p>23 of the question. The document speaks</p> <p>24 for itself.</p> <p>25 THE WITNESS: I don't care what</p>	<p style="text-align: right;">208</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. Now, the way this lays -- this</p> <p>4 is laid out, there's a "Background," the</p> <p>5 "Literature Review," conclusions of the</p> <p>6 committee and then the "Beak Trimming</p> <p>7 Recommendations For UEP Guidelines." Right?</p> <p>8 A. Yes.</p> <p>9 Q. Now, were the beak trimming</p> <p>10 recommendations that were put forward by the</p> <p>11 Scientific Advisory Committee adopted by UEP?</p> <p>12 A. The beak trimming</p> <p>13 recommendations were adopted by UEP, but I am</p> <p>14 not sure that's exactly these here because</p> <p>15 I'll say again I believe there is a later</p> <p>16 version of this.</p> <p>17 Q. Well, we'll just do our best</p> <p>18 with this one. The ones --</p> <p>19 MS. LEVINE: Object to the form</p> <p>20 of the question. The witness has said</p> <p>21 over and over again this is not the</p> <p>22 final.</p> <p>23 MR. OLSON: We don't need you to</p> <p>24 testify about anything.</p> <p>25 MS. LEVINE: Well, I just want</p>
<p style="text-align: right;">207</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Jeff Armstrong wrote there. I'm</p> <p>3 telling you under oath that Barrie</p> <p>4 Wilcox was not a member of that</p> <p>5 committee, nor did he have any voting</p> <p>6 on that committee.</p> <p>7 BY MR. OLSON:</p> <p>8 Q. And if there was --</p> <p>9 A. If my testimony under oath is</p> <p>10 not enough, then why am I here?</p> <p>11 Q. If you wanted to go find a</p> <p>12 document from the time that supported your</p> <p>13 view that Barrie Wilcox wasn't a member,</p> <p>14 where would you look?</p> <p>15 A. I don't know.</p> <p>16 Q. Let's look at the recommendations.</p> <p>17 Start with the beak trimming recommendations.</p> <p>18 It's the Bates stamp ends 36. And there's --</p> <p>19 the title says, "BEAK TRIMMING LAYING STRAINS</p> <p>20 OF CHICKENS."</p> <p>21 MS. LEVINE: I'm sorry, Steig,</p> <p>22 what page?</p> <p>23 MR. OLSON: 36.</p> <p>24 BY MR. OLSON:</p> <p>25 Q. Are you there?</p>	<p style="text-align: right;">209</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 to be clear about the record and that</p> <p>3 you don't trick him --</p> <p>4 MR. OLSON: It's not your</p> <p>5 responsibility to give testimony for</p> <p>6 the record. I'm not tricking anybody.</p> <p>7 The witness will speak for himself.</p> <p>8 MS. LEVINE: Just so that the</p> <p>9 record --</p> <p>10 MR. OLSON: Please don't give</p> <p>11 any more testimony.</p> <p>12 MS. LEVINE: -- is clear that</p> <p>13 this witness does not think it's the</p> <p>14 final.</p> <p>15 THE WITNESS: A point I don't</p> <p>16 want you to trick me up.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. No one is tricking you about</p> <p>19 anything.</p> <p>20 A. Yes, you are. I don't want you</p> <p>21 tricking me up on something that I can't</p> <p>22 verify is true because I believe there is a</p> <p>23 later version.</p> <p>24 Q. We've actually requested the</p> <p>25 official version from your counsel quite some</p>

53 (Pages 206 to 209)

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<p style="text-align: right;">210</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 time ago and they haven't given to us.</p> <p>3 MS. LEVINE: Objection. You are</p> <p>4 wrong.</p> <p>5 MR. McKENNEY: Object.</p> <p>6 MR. OLSON: No, I'm not.</p> <p>7 MS. LEVINE: Yes, you are.</p> <p>8 MR. McKENNEY: Yes, you are.</p> <p>9 MS. SUMNER: You are actually.</p> <p>10 MS. LEVINE: You're absolutely</p> <p>11 wrong.</p> <p>12 MR. OLSON: If it's buried in</p> <p>13 the production maybe, but we asked you</p> <p>14 for it and we got no response.</p> <p>15 MS. LEVINE: This case is</p> <p>16 about --</p> <p>17 MR. OLSON: So any suggestion</p> <p>18 I'm tricking anybody about anything is</p> <p>19 completely improper.</p> <p>20 MS. SUMNER: That's not true</p> <p>21 that you asked us for this and you got</p> <p>22 no response. You did not ask us for a</p> <p>23 final version of the recommendations</p> <p>24 from September of 2000.</p> <p>25 MR. OLSON: That may be true.</p>	<p style="text-align: right;">212</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 (Exhibit Gregory-20,</p> <p>3 Recommendations for UEP Animal Welfare</p> <p>4 Guidelines, Bates UE0208684 -</p> <p>5 UE0208703, was marked for</p> <p>6 identification.)</p> <p>7 - - -</p> <p>8 BY MR. OLSON:</p> <p>9 Q. So, Mr. Gregory, I'll hand you</p> <p>10 what we've marked Gregory-20 which is the</p> <p>11 document dated September 2000. The Bates</p> <p>12 stamp is UE0208684 through 8703.</p> <p>13 Before we get into it, let me</p> <p>14 just understand the timeline. We looked in</p> <p>15 Exhibit 18, United Voices publication talking</p> <p>16 about a UEP board meeting that it occurred</p> <p>17 prior to March 6, 2000, and where you say the</p> <p>18 Scientific Advisory Committee had presented a</p> <p>19 report. Okay. Right?</p> <p>20 A. I assume if you're reading it</p> <p>21 off that.</p> <p>22 MS. LEVINE: You can ask him to</p> <p>23 look at what he's looking at.</p> <p>24 BY MR. OLSON:</p> <p>25 Q. And then -- so that's</p>
<p style="text-align: right;">211</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 MS. SUMNER: And it has been</p> <p>3 produced. And if you want, I'm happy</p> <p>4 to give --</p> <p>5 MR. OLSON: Do you know where it</p> <p>6 is in the production?</p> <p>7 MS. SUMNER: I'm happy to give</p> <p>8 you the Bates numbers. It appears --</p> <p>9 MR. OLSON: Let's take a break.</p> <p>10 MS. LEVINE: No, we're not going</p> <p>11 to take a break. Let's go on the</p> <p>12 record for the Bates numbers.</p> <p>13 MS. SUMNER: It appears at</p> <p>14 UE0208684 through 703.</p> <p>15 MR. OLSON: Thank you. Well,</p> <p>16 let's take a break and see if we can</p> <p>17 get a copy of it.</p> <p>18 VIDEOGRAPHER: The time is 1:31.</p> <p>19 Going off the video record.</p> <p>20 - - -</p> <p>21 (A recess was taken.)</p> <p>22 - - -</p> <p>23 VIDEOGRAPHER: The time is 1:39.</p> <p>24 We are back on the video record.</p> <p>25 - - -</p>	<p style="text-align: right;">213</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 March 2000. Then Exhibit 19 is</p> <p>3 recommendations dated May 2000. And then</p> <p>4 you've indicated that Exhibit 20, the</p> <p>5 September 2000 document is the final</p> <p>6 scientific advisory recommendations this</p> <p>7 time. So my question is, what was the</p> <p>8 process by which the initial report was</p> <p>9 changed?</p> <p>10 A. Well, during this whole</p> <p>11 process, Dr. Armstrong was attending UEP</p> <p>12 meetings as the Scientific Committee was</p> <p>13 meeting and giving the board some updates and</p> <p>14 things that they were working on in the</p> <p>15 Scientific Committee so that they -- you</p> <p>16 know, we didn't want -- when all of a sudden</p> <p>17 they just laid it on us as a shock, what it</p> <p>18 was, what he was doing was giving us progress</p> <p>19 reports as they went along of things they</p> <p>20 were working on and what they doing.</p> <p>21 Q. Were you given the opportunity</p> <p>22 to review the May 2000 recommendations?</p> <p>23 A. I don't recall.</p> <p>24 Q. Were you given the opportunity</p> <p>25 to edit them?</p>

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<p style="text-align: right;">214</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. No, I was not, because you see,</p> <p>3 this is the Scientific Committee's report.</p> <p>4 This is not my report.</p> <p>5 Q. So you didn't do any editing of</p> <p>6 the May 2000 report?</p> <p>7 A. I didn't do any editing of</p> <p>8 anything that they presented.</p> <p>9 Q. Do you know who edited the May</p> <p>10 2000 report before the September 2000 report?</p> <p>11 MS. LEVINE: Objection to form</p> <p>12 of the question.</p> <p>13 THE WITNESS: No, I do not.</p> <p>14 BY MR. OLSON:</p> <p>15 Q. To the extent that changes were</p> <p>16 made, were you a part of the discussion of</p> <p>17 those changes at the time?</p> <p>18 A. I would have been -- I would</p> <p>19 have been at a meeting of the Scientific</p> <p>20 Committee and have -- would have heard the</p> <p>21 discussions that were going on.</p> <p>22 Q. So let's look at both 19 and</p> <p>23 20, 19 being the May 2000 report, 20 being</p> <p>24 the --</p> <p>25 A. Can I ask a question?</p>	<p style="text-align: right;">216</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 change?</p> <p>3 A. I do not.</p> <p>4 Q. So let's look at the beak</p> <p>5 trimming section. Number 20, Exhibit 20,</p> <p>6 this page, ends in 688.</p> <p>7 A. Am I looking at the September?</p> <p>8 Q. Yes.</p> <p>9 A. Okay. Or am I comparing</p> <p>10 September with May, what's the question?</p> <p>11 Q. Just look at September for now.</p> <p>12 So again, there's "Background," "Literature</p> <p>13 Review," "Conclusions of the Committee"</p> <p>14 section and then there's "Beak Trimming</p> <p>15 Recommendations for UEP Guidelines." Do you</p> <p>16 see those sections?</p> <p>17 A. Yes, I do.</p> <p>18 Q. Were the beak trimming</p> <p>19 recommendations in the September 2000</p> <p>20 document put forward by the Scientific</p> <p>21 Committee, were they adopted in full?</p> <p>22 A. Without looking at a document</p> <p>23 of the program, I would not be able to answer</p> <p>24 that.</p> <p>25 Q. What's the first recommendation</p>
<p style="text-align: right;">215</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. -- September 2000 report. Yes.</p> <p>3 A. Why is 19 May 2000 of any</p> <p>4 importance because it doesn't make the</p> <p>5 recommendations to the industry?</p> <p>6 Q. All right. If you look at the</p> <p>7 first page of both of the documents, the</p> <p>8 Jeffrey Armstrong statement --</p> <p>9 A. Okay.</p> <p>10 Q. -- you'll see in the</p> <p>11 September 2000 document the statement that we</p> <p>12 looked at earlier about "UEP did provide one</p> <p>13 staff member and a producer as ex officio</p> <p>14 members of the committee" is unchanged in the</p> <p>15 September 2000 document. Do you see that?</p> <p>16 A. I see that.</p> <p>17 Q. If you look at the next page</p> <p>18 that lists the members.</p> <p>19 A. Yes.</p> <p>20 Q. You compare the two, now</p> <p>21 there's been a change. And Barrie Wilcox is</p> <p>22 not listed as member anymore. He's now</p> <p>23 listed as support. Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. Do you recall who made that</p>	<p style="text-align: right;">217</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 that the Scientific Advisory Committee made?</p> <p>3 A. I'm reading now instead of you.</p> <p>4 Is that --</p> <p>5 Q. You can read or you can</p> <p>6 paraphrase, whatever you want to do.</p> <p>7 A. What I meant was, are you</p> <p>8 asking me to read it out loud or just read it</p> <p>9 to myself?</p> <p>10 Q. Oh, I'll read it out loud. The</p> <p>11 first recommendation the Scientific Advisory</p> <p>12 Committee made was "Where possible, producers</p> <p>13 should select genetic stocks known to require</p> <p>14 little or no beak trimming."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Was that ever a requirement to</p> <p>18 the UEP program?</p> <p>19 A. I believe that it is in the</p> <p>20 program, but I don't believe it's ever been</p> <p>21 possible to do that.</p> <p>22 Q. It's not possible to do what</p> <p>23 the Scientific Advisory Committee</p> <p>24 recommended, that's your belief?</p> <p>25 A. Because I don't think the</p>

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218	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 genetic companies have bred that kind of</p> <p>3 chicken yet.</p> <p>4 Q. So you think the Scientific</p> <p>5 Advisory Committee made a recommendation to</p> <p>6 do something that was impossible?</p> <p>7 MS. LEVINE: Object to the form</p> <p>8 of the question.</p> <p>9 BY MR. OLSON:</p> <p>10 Q. That's your belief?</p> <p>11 A. There again, I believe you're</p> <p>12 trying to bait me into something, no.</p> <p>13 Q. That's what you're saying.</p> <p>14 Right?</p> <p>15 MS. LEVINE: Object to the form</p> <p>16 of the question.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. That their recommendation was</p> <p>19 not possible, that's what you're saying?</p> <p>20 A. Their recommendation that they</p> <p>21 made in September 2000 was a goal that the</p> <p>22 industry should strive to do that is what</p> <p>23 they're doing. As of yet, that has not been</p> <p>24 possible.</p> <p>25 Q. You don't -- you don't -- your</p>	220	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Animal Husbandry Guidelines did not become</p> <p>3 effective until 2002. This is a working</p> <p>4 paper for the Producer Committee.</p> <p>5 Q. Well, let's look at the second</p> <p>6 page of the document. It's a letter from you</p> <p>7 dated November 13, 2000. Why don't you</p> <p>8 review that letter?</p> <p>9 A. (Reviewing document.) Okay.</p> <p>10 Q. Can you identify it as a letter</p> <p>11 that you wrote --</p> <p>12 A. Yes.</p> <p>13 Q. -- to UEP and UEA members and</p> <p>14 friends on November 13, 2000?</p> <p>15 A. Yes.</p> <p>16 Q. And on November 13, 2000, you</p> <p>17 tell all those folks that you're sharing the</p> <p>18 completed document of husbandry guidelines</p> <p>19 for the egg industry. Correct?</p> <p>20 A. That's what it says here, yes.</p> <p>21 Q. So at the time you thought this</p> <p>22 was the completed document, Exhibit 21.</p> <p>23 Right?</p> <p>24 A. Evidently so.</p> <p>25 Q. Now, you say, "This road map</p>
219	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 belief is there are not some genetic stocks</p> <p>3 that are known to -- that were known as of</p> <p>4 2000 to require little or no beak trimming?</p> <p>5 A. To my knowledge, there are no</p> <p>6 genetic stocks that you can do that with.</p> <p>7 - - -</p> <p>8 (Exhibit Gregory-21, Animal</p> <p>9 Husbandry Guidelines for U.S. Egg</p> <p>10 Laying Flocks 2000 Edition, Bates</p> <p>11 MFI0276310 - MFI0276328, was marked</p> <p>12 for identification.)</p> <p>13 - - -</p> <p>14 BY MR. OLSON:</p> <p>15 Q. Let me hand you what's been</p> <p>16 marked as Gregory-21, which is Bates stamped</p> <p>17 MFI0276310 through 276328. If you look at</p> <p>18 the -- let's just take a moment and get</p> <p>19 there.</p> <p>20 Can you identify this as the</p> <p>21 Animal Husbandry Guidelines as put forward by</p> <p>22 UEP for -- and it's the 2000 edition?</p> <p>23 A. It is not.</p> <p>24 Q. Why is that?</p> <p>25 A. Because the UEP certified</p>	221	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 does not demand immediate changes..."</p> <p>3 Do you see that on the first</p> <p>4 page?</p> <p>5 A. Yes.</p> <p>6 Q. "...but does give producers an</p> <p>7 opportunity to be prepared when their</p> <p>8 customer wants changes." Right?</p> <p>9 A. Yes.</p> <p>10 Q. And you say, "This road map</p> <p>11 also gives them the timeline in which to make</p> <p>12 voluntarily changes." Right?</p> <p>13 A. That's what it says.</p> <p>14 Q. And that's how the program was</p> <p>15 contemplated when it was first developed in</p> <p>16 November of 2000. Right?</p> <p>17 MS. LEVINE: Object to the form</p> <p>18 of the question.</p> <p>19 THE WITNESS: Yes, but the --</p> <p>20 BY MR. OLSON:</p> <p>21 Q. It was going to be --</p> <p>22 MS. LEVINE: Let Mr. Gregory</p> <p>23 finish his answer.</p> <p>24 MR. OLSON: It was a yes or no</p> <p>25 question which he's answered.</p>

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<p style="text-align: right;">222</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 MS. LEVINE: You stopped him mid</p> <p>3 sentence. Let him finish his thought.</p> <p>4 Go ahead, Mr. Gregory.</p> <p>5 BY MR. OLSON:</p> <p>6 Q. That's how it was contemplated</p> <p>7 at the time. Correct?</p> <p>8 A. I am trying to tell you that</p> <p>9 while I used the word "completed," it was as</p> <p>10 of completed at that time, that the final</p> <p>11 document I believe you will find of the</p> <p>12 guidelines is April of 2000, something like</p> <p>13 that I think it is. I'm not sure exactly</p> <p>14 what --</p> <p>15 Q. April of 2000?</p> <p>16 A. 2002.</p> <p>17 Q. Well, let's talk about -- I</p> <p>18 just want to talk about the one that you told</p> <p>19 UEP and UEA members in November of 2000 was</p> <p>20 the completed document. All right? And the</p> <p>21 way you describe it as one not demanding</p> <p>22 immediate changes, but just giving producers</p> <p>23 an opportunity to be prepared when the</p> <p>24 customer wants changes, that's how the</p> <p>25 program was contemplated as of that time.</p>	<p style="text-align: right;">224</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. OLSON:</p> <p>3 Q. Then you go on to say, "You may</p> <p>4 want to share a copy of these guidelines with</p> <p>5 your customers."</p> <p>6 A. Yes.</p> <p>7 Q. So they were completed enough</p> <p>8 for you to tell UEP members go ahead, send it</p> <p>9 to their customers?</p> <p>10 A. Why are we spending all the</p> <p>11 time on something that wasn't really the</p> <p>12 program at the time? Why aren't we talking</p> <p>13 about the program?</p> <p>14 Q. We're going to get there?</p> <p>15 A. Well, good.</p> <p>16 Q. Because the way you describe</p> <p>17 the program in this letter --</p> <p>18 A. It doesn't matter how I</p> <p>19 describe the program at that time. What is</p> <p>20 the --</p> <p>21 Q. It's not how it ended up.</p> <p>22 Right?</p> <p>23 A. It's not how it ended up.</p> <p>24 That's what we should be focusing on.</p> <p>25 Q. We'll get there.</p>
<p style="text-align: right;">223</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Correct?</p> <p>3 A. Yes.</p> <p>4 Q. It was going to be a customer</p> <p>5 driven program. Right?</p> <p>6 A. I don't think we viewed it as a</p> <p>7 customer driven program. It was -- you know,</p> <p>8 they could do it whenever there was a need to</p> <p>9 do it.</p> <p>10 Q. Right. And if a customer</p> <p>11 wanted them to make certain changes, this</p> <p>12 would provide a road map for a producer to</p> <p>13 make those changes. Right?</p> <p>14 A. Yes.</p> <p>15 Q. That's how the program was</p> <p>16 envisioned. Right?</p> <p>17 MS. LEVINE: Object to the form</p> <p>18 of the question. Mr. Gregory, you can</p> <p>19 answer the question.</p> <p>20 BY MR. OLSON:</p> <p>21 Q. At this time that's how it was</p> <p>22 envisioned. Right?</p> <p>23 MS. LEVINE: Mr. Gregory can</p> <p>24 answer the question.</p> <p>25 THE WITNESS: Yes.</p>	<p style="text-align: right;">225</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Then at the end of your letter</p> <p>3 you say, "Finally let us express our thanks</p> <p>4 to American Egg Board...for the funding they</p> <p>5 contributed toward this project."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Because AEB gave funding that</p> <p>9 contributed toward development of guidelines.</p> <p>10 Right?</p> <p>11 A. They gave some money towards</p> <p>12 some research, I think it was. I don't</p> <p>13 remember what it was.</p> <p>14 Q. Was it anything beyond</p> <p>15 research, to the best of your recollection?</p> <p>16 A. That's -- again, that's 13</p> <p>17 years ago, I don't know. I don't recall.</p> <p>18 Q. In this document,</p> <p>19 November 2001, that UEP adopted, you</p> <p>20 described as completed, sent to the UEP</p> <p>21 members, the UEA members, told them to send</p> <p>22 to their customers, when you list the</p> <p>23 Scientific Advisory Committee members, you</p> <p>24 don't list Mr. Wilcox at all. Right?</p> <p>25 MS. LEVINE: Object to the form</p>

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<p style="text-align: right;">226</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 of the question. Mischaracterizes the</p> <p>3 witness' testimony.</p> <p>4 THE WITNESS: I'm not sure, but</p> <p>5 by that time, Barrie Wilcox may no</p> <p>6 longer have been a UEP chairman and</p> <p>7 there may have been a new chairman by</p> <p>8 that time, but I don't know. But you</p> <p>9 notice that that list there does not</p> <p>10 include him or me.</p> <p>11 BY MR. OLSON:</p> <p>12 Q. Right. He's not listed as a</p> <p>13 member and the part about Mr. Wilcox even</p> <p>14 being a supporting member, that's not listed</p> <p>15 either. That was taken off. Right?</p> <p>16 A. Obviously it is.</p> <p>17 Q. Who took that off the list?</p> <p>18 A. You know, I apologize to you</p> <p>19 because you're asking me questions that are</p> <p>20 13 years old.</p> <p>21 Q. Do you know?</p> <p>22 A. No, I don't know.</p> <p>23 Q. Okay.</p> <p>24 A. But I don't want to be treated</p> <p>25 as if I'm stupid, though, either. That's</p>	<p style="text-align: right;">228</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Now, in the UEP guidelines,</p> <p>3 that's not listed under the recommendations.</p> <p>4 MS. LEVINE: Object to the form</p> <p>5 of the question. Mischaracterizes</p> <p>6 what the witness has testified about</p> <p>7 this document, 21.</p> <p>8 THE WITNESS: I can't answer</p> <p>9 that without seeing the Animal</p> <p>10 Husbandry Guidelines of April 2002.</p> <p>11 You're making a -- you're telling me</p> <p>12 that they're not included there, but I</p> <p>13 don't have any way of knowing that</p> <p>14 what you're telling me is by fact.</p> <p>15 BY MR. OLSON:</p> <p>16 Q. Let's just start with 21, the</p> <p>17 completed guidelines that you sent to all</p> <p>18 members and told them to send to customers.</p> <p>19 A. Can you show me the cover of</p> <p>20 that page?</p> <p>21 Q. 21.</p> <p>22 A. 21. Okay. Yes. Okay.</p> <p>23 Q. Beak trimming ends at 6320.</p> <p>24 A. Again, we're looking at</p> <p>25 incomplete project. Okay.</p>
<p style="text-align: right;">227</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 what I'm saying.</p> <p>3 Q. Well, let me make it really</p> <p>4 clear. I have to ask questions. If you</p> <p>5 don't know the answer, no one will hold it</p> <p>6 against you. You just have to let us know.</p> <p>7 But I just have to ask questions which might</p> <p>8 even seem ridiculous, but maybe you might</p> <p>9 know something, so I have to ask it.</p> <p>10 A. Okay.</p> <p>11 Q. So we're looking at 19 --</p> <p>12 Exhibit 19, Exhibit 20, Exhibit 21. Let's</p> <p>13 look at Exhibit 20, which is the</p> <p>14 September 2000 Scientific Advisory Committee</p> <p>15 recommendations.</p> <p>16 A. This is which one? Exhibit</p> <p>17 what?</p> <p>18 MS. LEVINE: 20.</p> <p>19 THE WITNESS: 20. Okay.</p> <p>20 BY MR. OLSON:</p> <p>21 Q. All right. Number 1, it says,</p> <p>22 "Where possible, the producers should select</p> <p>23 genetic stocks known to require little or no</p> <p>24 beak trimming." Right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">229</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Okay. So go to the section</p> <p>3 that says, "BEAK TRIMMING," please.</p> <p>4 A. I'm having real trouble with</p> <p>5 this because this is not the final. In this</p> <p>6 thing it is saying, "Using genetic stocks</p> <p>7 that require little or no beak trimming is</p> <p>8 the most desirable approach." There is no</p> <p>9 reason to include a guideline that at that</p> <p>10 point in time or do you see in the future</p> <p>11 that is doable. But so it doesn't come down</p> <p>12 under the recommendations, but it is in the</p> <p>13 beak trimming body of the message.</p> <p>14 Q. Isn't what the body of the</p> <p>15 message says that only under certain</p> <p>16 management systems is beak trimming</p> <p>17 recommended?</p> <p>18 A. Are you trying to challenge me</p> <p>19 on whether we should be beak trimming chicks</p> <p>20 or not, is that what the challenge is here?</p> <p>21 Q. Yeah, because don't the</p> <p>22 guidelines that UEP put forward basically say</p> <p>23 it's fine to beak trim every hen?</p> <p>24 A. No.</p> <p>25 Q. Is there any requirement of the</p>

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<p style="text-align: right;">230</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 UEP program as adopted that a hen producer</p> <p>3 make an effort to not beak trim hens?</p> <p>4 A. Oh, it's perfectly fine not to</p> <p>5 beak trim hens.</p> <p>6 Q. I said is there any requirement</p> <p>7 of the UEP program that an egg producer make</p> <p>8 any effort at all not to beak trim every</p> <p>9 single one of its hens?</p> <p>10 A. You are not required to beak</p> <p>11 trim anything. In fact, that would be --</p> <p>12 Q. I'm asking the opposite.</p> <p>13 A. But if you do --</p> <p>14 Q. I'm asking the opposite</p> <p>15 question.</p> <p>16 MS. LEVINE: Let Mr. Gregory</p> <p>17 finish.</p> <p>18 MR. OLSON: He doesn't</p> <p>19 understand the question.</p> <p>20 MS. LEVINE: Mr. Olson, you are</p> <p>21 being rude to the witness. He was in</p> <p>22 the middle of an answer. Just let him</p> <p>23 finish.</p> <p>24 MR. OLSON: My question is</p> <p>25 obviously unclear.</p>	<p style="text-align: right;">232</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Where possible try not to have to beak trim</p> <p>3 your hens. Right?</p> <p>4 A. Right.</p> <p>5 Q. Is there anything in the UEP</p> <p>6 guidelines that required producers to try to</p> <p>7 avoid beak trimming?</p> <p>8 A. No. The recommendations tells</p> <p>9 you how to do it if -- if you need to beak</p> <p>10 trim, it tells you how to do it.</p> <p>11 Q. Now, let's look at back to</p> <p>12 19 -- I'm sorry, not 19. Back to 20, this is</p> <p>13 the September 2000 final scientific advisory</p> <p>14 report. Let's look at the housing space</p> <p>15 allowances discussion.</p> <p>16 A. Okay.</p> <p>17 Q. There's a "Background," a</p> <p>18 "Literature Review," we can skip those.</p> <p>19 Well, actually in the middle of the</p> <p>20 literature review on the page that ends 8692,</p> <p>21 it says, "The research on space allowances</p> <p>22 can be summarized as follows."</p> <p>23 A. Where is that, you said on 692?</p> <p>24 Q. 6 -- yes.</p> <p>25 A. And where -- oh, it's up there.</p>
<p style="text-align: right;">231</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 MS. LEVINE: Let him finish.</p> <p>3 No, it's obviously not.</p> <p>4 THE WITNESS: Okay.</p> <p>5 BY MR. OLSON:</p> <p>6 Q. Thank you. The question is, is</p> <p>7 there any requirement in the UEP program as</p> <p>8 UEP adopted it that calls on egg producers to</p> <p>9 make any effort at all to not beak trim every</p> <p>10 one of their hens?</p> <p>11 MS. LEVINE: Object to the form</p> <p>12 of the question. That is unintelligible.</p> <p>13 MR. OLSON: That is?</p> <p>14 MS. LEVINE: Yes.</p> <p>15 BY MR. OLSON:</p> <p>16 Q. Is that unintelligible to you?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 A. Because you're putting two</p> <p>20 separate sentences, you're saying one thing</p> <p>21 and countering it within the same sentence.</p> <p>22 Q. That's fine. I'll try it</p> <p>23 again.</p> <p>24 The Scientific Advisory</p> <p>25 Committee's recommendation number 1, says</p>	<p style="text-align: right;">233</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 MS. LEVINE: Which document --</p> <p>3 I'm sorry.</p> <p>4 THE WITNESS: "The research on</p> <p>5 space allowances can be summarized as</p> <p>6 follows." Okay.</p> <p>7 MR. OLSON: 20.</p> <p>8 BY MR. OLSON:</p> <p>9 Q. Right. Point number one says,</p> <p>10 "Numerous studies..." and I'll skip some</p> <p>11 language, "...have shown that decreasing</p> <p>12 space allowances in cages to below</p> <p>13 approximately 72 square inches per</p> <p>14 hen...significantly reduces hen-house egg</p> <p>15 production and increases mortality." Right?</p> <p>16 A. Uh-huh.</p> <p>17 Q. Increased mortality is not a</p> <p>18 good things for hens?</p> <p>19 A. It's not.</p> <p>20 Q. Was there ever a requirement of</p> <p>21 the UEP program that hens get 72 square</p> <p>22 inches per hen?</p> <p>23 A. No. No.</p> <p>24 Q. Now, if you look at the fourth</p> <p>25 bullet, it says, "Measurements of White</p>

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<p style="text-align: right;">234</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Leghorn hens show that they require about</p> <p>3 65-83 square inches (average 74) to perform</p> <p>4 even the most basic behaviors." Right?</p> <p>5 That's what it says. Right?</p> <p>6 A. That's what it says.</p> <p>7 Q. And hens, it's a humane thing</p> <p>8 to let them perform basic behaviors. Right?</p> <p>9 MS. LEVINE: Object to the form</p> <p>10 of the question. He's not a</p> <p>11 scientist.</p> <p>12 THE WITNESS: We don't use that</p> <p>13 term, but okay. Sure.</p> <p>14 BY MR. OLSON:</p> <p>15 Q. Things like standing</p> <p>16 comfortably and resting, those are humane</p> <p>17 things to allow a bird to do. Right?</p> <p>18 MS. LEVINE: Object to the form</p> <p>19 of the question.</p> <p>20 THE WITNESS: What --</p> <p>21 BY MR. OLSON:</p> <p>22 Q. Is that good for the animal</p> <p>23 welfare of hens to be able to stand</p> <p>24 comfortably?</p> <p>25 MS. LEVINE: Object to the form</p>	<p style="text-align: right;">236</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 why?</p> <p>3 Q. No, I just want to know the</p> <p>4 answer.</p> <p>5 A. Because -- you don't want to</p> <p>6 know the reason.</p> <p>7 Q. I just want to know the answer.</p> <p>8 They didn't. Right?</p> <p>9 A. They did not.</p> <p>10 Q. Now, this --</p> <p>11 A. That's unfair, but I'll say</p> <p>12 they did not.</p> <p>13 Q. The next bullet says that</p> <p>14 "Feeder space is a critical element affecting</p> <p>15 welfare."</p> <p>16 Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Do you agree?</p> <p>19 A. No.</p> <p>20 Q. And what the Scientific</p> <p>21 Advisory Committee said is that "Four inches</p> <p>22 of feeder space per hen is required for all</p> <p>23 hens to have free access to the feeder."</p> <p>24 Do you see that?</p> <p>25 A. I see it, but you don't want an</p>
<p style="text-align: right;">235</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 of the question.</p> <p>3 THE WITNESS: The point is</p> <p>4 you're trying to discredit the</p> <p>5 Scientific Committee and you're trying</p> <p>6 to discredit this program, I'm not</p> <p>7 going to let you do it.</p> <p>8 BY MR. OLSON:</p> <p>9 Q. I'm not trying to discredit the</p> <p>10 Scientific Committee --</p> <p>11 A. Yes, you are.</p> <p>12 Q. -- at all. What they said is</p> <p>13 hens, white Leghorn hens need an average of</p> <p>14 74 inches to perform even the most basic</p> <p>15 behaviors. Right?</p> <p>16 A. That's what it says.</p> <p>17 Q. And it says they need more room</p> <p>18 to perform other behaviors like wing</p> <p>19 flapping.</p> <p>20 A. That's what it says.</p> <p>21 Q. Even more than 74. Right?</p> <p>22 A. Yes.</p> <p>23 Q. And under the UEP program they</p> <p>24 didn't even get 74 inches, did they?</p> <p>25 A. Because -- you want to know</p>	<p style="text-align: right;">237</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 answer.</p> <p>3 Q. Did the UEP program give all</p> <p>4 inches four -- all hens four inches of feeder</p> <p>5 space per hen?</p> <p>6 A. They did not, but you, again,</p> <p>7 don't want the answer.</p> <p>8 MR. OLSON: We need to take a</p> <p>9 break to change tape.</p> <p>10 VIDEOGRAPHER: The time is 2:03.</p> <p>11 We're going off the video record.</p> <p>12 - - -</p> <p>13 (A recess was taken.)</p> <p>14 - - -</p> <p>15 VIDEOGRAPHER: The time is 2:12.</p> <p>16 This is tape number four.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. We're looking at Exhibit 20,</p> <p>19 the September 2000 Scientific Advisory</p> <p>20 Committee recommendations. Let's look at the</p> <p>21 page that ends in 693. Number 2 under the</p> <p>22 recommendations for caged hens says, "Hens</p> <p>23 should be able to stand comfortably upright</p> <p>24 in their cage without having their heads</p> <p>25 protruding into the cage above." Right?</p>

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<p style="text-align: right;">238</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. That's reasonable. Right?</p> <p>4 A. Yes.</p> <p>5 Q. "A cage height of 16-17 inches</p> <p>6 will generally be acceptable..."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Was that ever a requirement of</p> <p>10 the UEP program?</p> <p>11 A. Again, you're going to have to</p> <p>12 show me the UEP document.</p> <p>13 Q. To your knowledge, was it ever</p> <p>14 a requirement, do you know?</p> <p>15 A. My answer, again, is you're</p> <p>16 going to have to show me the UEP document.</p> <p>17 Q. Without seeing the document, do</p> <p>18 you know if that was ever a requirement?</p> <p>19 A. No.</p> <p>20 Q. You don't know?</p> <p>21 A. I don't know.</p> <p>22 Q. Or it was not?</p> <p>23 A. I don't know.</p> <p>24 Q. Is it a requirement in</p> <p>25 Exhibit 21, the 2000 guidelines that you</p>	<p style="text-align: right;">240</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 testified the program was completed. Right?</p> <p>3 A. Yes.</p> <p>4 Q. All right. In this UEP</p> <p>5 document, is there any requirement that hens</p> <p>6 get a cage height of 16 to 17 inches at a</p> <p>7 minimum?</p> <p>8 A. Let me review what page that</p> <p>9 would be on. (Reviewing document.)</p> <p>10 So your question again is what?</p> <p>11 Q. Whether there's any requirement</p> <p>12 in the UEP program that was adopted that hens</p> <p>13 get a minimum of 16 or 17 inches of cage</p> <p>14 height?</p> <p>15 A. No, it's not there.</p> <p>16 Q. And there's also no requirement</p> <p>17 that there be a minimum feeder space of four</p> <p>18 inches per bird in the UEP programs that were</p> <p>19 adopted. Correct?</p> <p>20 A. No, there's not.</p> <p>21 Q. Now, back to what the</p> <p>22 Scientific Advisory Committee recommended,</p> <p>23 they also made a recommendation about fresh</p> <p>24 air for the bird. Right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">239</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 distributed to UEP members?</p> <p>3 MS. LEVINE: Object to the form</p> <p>4 of the question. Mischaracterizing</p> <p>5 the document. The witness can answer.</p> <p>6 THE WITNESS: I'd have to look</p> <p>7 at it, but, again, I'm not concerned</p> <p>8 about this 2000 edition, number 21,</p> <p>9 because that's not the final product.</p> <p>10 - - -</p> <p>11 (Exhibit Gregory-22, United Egg</p> <p>12 Producers Animal Husbandry Guidelines</p> <p>13 for U.S. Egg Laying Flocks 2003</p> <p>14 Edition, Bates UE0809072 - EU0809988,</p> <p>15 was marked for identification.)</p> <p>16 - - -</p> <p>17 BY MR. OLSON:</p> <p>18 Q. Let me hand you what we'll mark</p> <p>19 as Gregory Exhibit 22. Please keep 20 handy.</p> <p>20 This is a document Bates stamped UE0809972</p> <p>21 through 9988. Mr. Gregory, can you identify</p> <p>22 this as the UEP adopted guidelines, the 2003</p> <p>23 edition?</p> <p>24 A. Yes.</p> <p>25 Q. So this is after you've</p>	<p style="text-align: right;">241</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. That's an important thing for a</p> <p>3 bird to get. Right?</p> <p>4 A. Yes.</p> <p>5 Q. This is the next page, it's</p> <p>6 point 9, and it says, what the Scientific</p> <p>7 Advisory Committee said is, The ammonia</p> <p>8 concentration to which the birds are exposed</p> <p>9 should ideally be less than 10 parts per</p> <p>10 million and should not exceed 25 parts per</p> <p>11 million. Right?</p> <p>12 A. Yes.</p> <p>13 Q. Do the UEP guidelines adopt</p> <p>14 that recommendation?</p> <p>15 A. The UEP guidelines says that it</p> <p>16 should be -- birds should be exposed, should</p> <p>17 ideally be less than 25 parts per million but</p> <p>18 not exceed 50 parts per million.</p> <p>19 Q. Right. So the answer is no?</p> <p>20 A. The answer is no.</p> <p>21 When do I get a chance to tell</p> <p>22 the background of this stuff?</p> <p>23 Q. Just to try to set your mind at</p> <p>24 ease the best I can, I have limited time. I</p> <p>25 need to do what I need to do. Your counsel</p>

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<p style="text-align: right;">242</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 can take all the time with you you want to</p> <p>3 ask you all the questions that you want to</p> <p>4 answer.</p> <p>5 A. My point is that --</p> <p>6 Q. In an ideal world you and I</p> <p>7 would talk for hours and hours, but it's just</p> <p>8 not possible.</p> <p>9 A. My point is that am I being set</p> <p>10 up here to a point to not being able to tell</p> <p>11 a series of events that happened through</p> <p>12 research and all that thereafter?</p> <p>13 Q. All right. Let's look at the</p> <p>14 molting recommendations --</p> <p>15 A. Obviously not. Okay.</p> <p>16 Q. -- in Exhibit 20 which is the</p> <p>17 Scientific Advisory Committee recommendations.</p> <p>18 A. Molting, what page is that?</p> <p>19 Q. Ends in 698.</p> <p>20 A. Okay.</p> <p>21 Q. Now, the issue about molting</p> <p>22 that was raised around this time was that</p> <p>23 some egg producers would molt their chickens</p> <p>24 by depriving them of food. Right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">244</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 talking about --</p> <p>3 Q. Hold on. I just want to make</p> <p>4 sure -- if you don't see it, let's make sure</p> <p>5 you see it. 698, second full paragraph in</p> <p>6 Exhibit 20.</p> <p>7 A. Which -- all right. Second</p> <p>8 paragraph?</p> <p>9 Q. Do you see where it starts, "It</p> <p>10 is the practice..."?</p> <p>11 A. Yes, yes, yes.</p> <p>12 Q. And then it says, "Our</p> <p>13 committee agreed with this concern."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Does that refresh your</p> <p>17 recollection of --</p> <p>18 A. Yes.</p> <p>19 Q. And because of that concern,</p> <p>20 the Scientific Advisory Committee recommended</p> <p>21 that the shortest period of feed withdrawal</p> <p>22 possible should be used when molting is used.</p> <p>23 Right?</p> <p>24 A. Yes.</p> <p>25 Q. Was that ever a requirement of</p>
<p style="text-align: right;">243</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. By starving them?</p> <p>3 A. That was --</p> <p>4 MS. LEVINE: Object to the form</p> <p>5 of the question. Mischaracterizes</p> <p>6 what the witness said.</p> <p>7 THE WITNESS: Until that time,</p> <p>8 that was the only known way to do it</p> <p>9 based upon university research that</p> <p>10 had been done many years ago.</p> <p>11 BY MR. OLSON:</p> <p>12 Q. Just to talk about the concern,</p> <p>13 the concern was depriving a hen of food is</p> <p>14 not -- it's a concern from an animal welfare</p> <p>15 perspective. Right?</p> <p>16 A. I don't think the scientists</p> <p>17 concluded that.</p> <p>18 Q. Well, let's look at Exhibit 20.</p> <p>19 "Committee Conclusions," the scientist said</p> <p>20 "It is the practice of feed withdrawal that</p> <p>21 has caused animal welfare groups to be</p> <p>22 concerned about the methods used by the egg</p> <p>23 layer industry to induce a molt."</p> <p>24 Do you see that?</p> <p>25 A. I do not, but what they're</p>	<p style="text-align: right;">245</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 the UEP program?</p> <p>3 A. The UEP program says that</p> <p>4 however, "Until such time that those</p> <p>5 alternatives are available, the shortest</p> <p>6 period of feed withdrawal possible should be</p> <p>7 used to accomplish the goal of rejuvenating</p> <p>8 the hen's egg production capacities and</p> <p>9 overall welfare."</p> <p>10 Q. Was there ever any requirement</p> <p>11 under the program that a producer actually</p> <p>12 use the shortest period of time possible?</p> <p>13 Was that ever something that was enforced?</p> <p>14 MS. LEVINE: Object to the form</p> <p>15 of the question.</p> <p>16 THE WITNESS: Yeah, because</p> <p>17 you're not allowing me to go forward</p> <p>18 in the years of the molt research</p> <p>19 projects.</p> <p>20 BY MR. OLSON:</p> <p>21 Q. Before the time that the feed</p> <p>22 withdrawal molting was prohibited.</p> <p>23 A. No, no, no. Our recommendation</p> <p>24 was based upon just these things here. It</p> <p>25 didn't say, okay, you do it in -- our goal is</p>

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<p style="text-align: right;">246</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 to do it in seven days and in five days,</p> <p>3 nothing like that.</p> <p>4 Q. So there's no specific</p> <p>5 requirement about how long it could be done.</p> <p>6 Right?</p> <p>7 A. No.</p> <p>8 Q. And there was no specific</p> <p>9 requirement that a producer demonstrate that</p> <p>10 they were doing it the shortest period of</p> <p>11 time possible?</p> <p>12 A. No.</p> <p>13 Q. Let's turn in the scientific</p> <p>14 advisory recommendations Exhibit 20 to the</p> <p>15 last page which is "Humane Handling</p> <p>16 Transportation & Slaughter" and the</p> <p>17 recommendations from the committee.</p> <p>18 A. Okay.</p> <p>19 Q. The first one says, the first</p> <p>20 recommendation from the committee is "Provide</p> <p>21 caged layers with as much space as possible,</p> <p>22 both horizontal and vertical, to facilitate</p> <p>23 movement and, thus, help to maintain bone</p> <p>24 strength during lay."</p> <p>25 Do you see that?</p>	<p style="text-align: right;">248</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 (Exhibit Gregory-23, UEP Animal</p> <p>3 Welfare Committee Meeting, May 15,</p> <p>4 2000, Bates UE0215485 & UE0215486, was</p> <p>5 marked for identification.)</p> <p>6 - - -</p> <p>7 BY MR. OLSON:</p> <p>8 Q. Let me hand you what's been</p> <p>9 marked Gregory-23.</p> <p>10 MS. LEVINE: Gregory-23?</p> <p>11 MR. OLSON: Yes. Gregory-23.</p> <p>12 BY MR. OLSON:</p> <p>13 Q. And I'll identify this as --</p> <p>14 unfortunately the Bates number, I believe</p> <p>15 it's UE0215485 through 486. Mr. Gregory,</p> <p>16 I'll ask if you can identify this as minutes</p> <p>17 of the UEP Animal Welfare Committee meeting</p> <p>18 dated May 15, 2000?</p> <p>19 A. That's what the title says.</p> <p>20 Q. And there was a discussion at</p> <p>21 this meeting about caged space allowance</p> <p>22 issues.</p> <p>23 MS. LEVINE: Object to the form</p> <p>24 of the question.</p> <p>25 BY MR. OLSON:</p>
<p style="text-align: right;">247</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. And the second one refers to,</p> <p>4 among other things, providing adequate feeder</p> <p>5 space so that hens consume enough calcium and</p> <p>6 phosphorus to keep their bones strong.</p> <p>7 Right?</p> <p>8 A. Uh-huh.</p> <p>9 Q. The concern is that being in</p> <p>10 transportation, hens without strong bones,</p> <p>11 they can break their bones. Right?</p> <p>12 MS. LEVINE: Object to the form</p> <p>13 of the question.</p> <p>14 THE WITNESS: You're getting an</p> <p>15 opportunity to provide dialogue, I'm</p> <p>16 not. So, yes, I guess that's right.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. Was there any requirement under</p> <p>19 the UEP guidelines that caged layers would be</p> <p>20 provided with as much horizontal and vertical</p> <p>21 space as possible to facilitate movement and</p> <p>22 maintain bone strength?</p> <p>23 A. No.</p> <p>24 Q. Okay. You can put that aside.</p> <p>25 - - -</p>	<p style="text-align: right;">249</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Right?</p> <p>3 A. It appears so.</p> <p>4 Q. Now, as of this time, the</p> <p>5 program, the Animal Welfare Program is still</p> <p>6 as you described it to the UEP members in</p> <p>7 November of 1991 as one that doesn't demand</p> <p>8 immediate changes but can give a timeline and</p> <p>9 a road map for producers when their customers</p> <p>10 want changes. Right?</p> <p>11 MS. LEVINE: Object to the form</p> <p>12 of the question. Mischaracterizes</p> <p>13 the --</p> <p>14 MR. CAMPBELL: You misspoke.</p> <p>15 MS. LEVINE: -- the testimony.</p> <p>16 BY MR. OLSON:</p> <p>17 Q. November 19 -- sorry,</p> <p>18 November 2000.</p> <p>19 MS. LEVINE: Same objection.</p> <p>20 Objection to the form of the question.</p> <p>21 Mischaracterizing what this witness</p> <p>22 says.</p> <p>23 BY MR. OLSON:</p> <p>24 Q. Let me ask the question again.</p> <p>25 Now, as of this time, the document -- the</p>

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<p style="text-align: right;">250</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 program being contemplated by UEP in</p> <p>3 Exhibit 23 is the type of program you</p> <p>4 described to UEP members in Exhibit 21 as one</p> <p>5 that did not demand immediate changes, but</p> <p>6 just gave a -- producers an opportunity to be</p> <p>7 prepared when their customers wanted changes.</p> <p>8 Right?</p> <p>9 MS. LEVINE: Object to the form</p> <p>10 of the question. Mischaracterizes the</p> <p>11 witness' testimony.</p> <p>12 THE WITNESS: Yes, that does</p> <p>13 talk about it being voluntary,</p> <p>14 whatever.</p> <p>15 BY MR. OLSON:</p> <p>16 Q. And what's discussed at this</p> <p>17 Animal Welfare Committee May 15, 2000, is</p> <p>18 that purely voluntary increases in space</p> <p>19 allowances would reduce returns for the</p> <p>20 companies that participated. Right?</p> <p>21 MS. LEVINE: Objection to the</p> <p>22 form of the question.</p> <p>23 Mischaracterizes what the witness has</p> <p>24 said.</p> <p>25 BY MR. OLSON:</p>	<p style="text-align: right;">252</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 was discussed is that "An increase in space</p> <p>3 allowance would inevitably reduce the layer</p> <p>4 population..." Right?</p> <p>5 MS. LEVINE: Object to the form</p> <p>6 of the question.</p> <p>7 THE WITNESS: No.</p> <p>8 BY MR. OLSON:</p> <p>9 Q. That's what was discussed at</p> <p>10 this time?</p> <p>11 MS. LEVINE: Object to the form</p> <p>12 of the question.</p> <p>13 THE WITNESS: No.</p> <p>14 BY MR. OLSON:</p> <p>15 Q. That's what the minutes say</p> <p>16 were discussed. Right?</p> <p>17 MS. LEVINE: Object to the form</p> <p>18 of the question.</p> <p>19 THE WITNESS: Would you ask that</p> <p>20 question again?</p> <p>21 BY MR. OLSON:</p> <p>22 Q. Okay. So these minutes of the</p> <p>23 Animal Welfare Committee meeting reflect that</p> <p>24 the second major effect of increasing space</p> <p>25 allowances as discussed at the meeting would</p>
<p style="text-align: right;">251</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. That's point 2 here, right?</p> <p>3 A. Yes.</p> <p>4 Q. And then point 3 says that</p> <p>5 increasing space allowances for the industry</p> <p>6 can only be justified if most or all egg</p> <p>7 producers participated. Right?</p> <p>8 A. That's what it says.</p> <p>9 MS. LEVINE: The document speaks</p> <p>10 for itself, I think you misread it.</p> <p>11 BY MR. OLSON:</p> <p>12 Q. In point 5 there was -- this</p> <p>13 reflects that there was a discussion at this</p> <p>14 meeting about the two major effects of</p> <p>15 increasing space allowances. Right?</p> <p>16 A. Yes, but again, why are we</p> <p>17 talking about something in May 2000 when it</p> <p>18 is not the final program?</p> <p>19 Q. And the first major effect that</p> <p>20 was discussed by the Animal Welfare Committee</p> <p>21 is that increasing space allowance would</p> <p>22 position the industry as a pro welfare step.</p> <p>23 Right?</p> <p>24 A. Yes.</p> <p>25 Q. The second major effect that</p>	<p style="text-align: right;">253</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 be that that increase would inevitably reduce</p> <p>3 the layer population. Right?</p> <p>4 MS. LEVINE: Object to the form</p> <p>5 of the question.</p> <p>6 THE WITNESS: What that is</p> <p>7 talking about at that point in time is</p> <p>8 the -- is that it would reduce the</p> <p>9 layer population per cage, I think,</p> <p>10 but it did not do that. In fact, the</p> <p>11 record will show that the layer flock</p> <p>12 increased.</p> <p>13 BY MR. OLSON:</p> <p>14 Q. But what was expected at the</p> <p>15 time is that it would reduce the layer</p> <p>16 population and it would thereby reduce the</p> <p>17 surplus production problems affecting the</p> <p>18 industry. Right?</p> <p>19 MS. LEVINE: Object to the form</p> <p>20 of the question. Mischaracterizes</p> <p>21 what the witness just said.</p> <p>22 THE WITNESS: It would reduce</p> <p>23 the number of hens in existing houses.</p> <p>24 BY MR. OLSON:</p> <p>25 Q. Well, not only that, what was</p>

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<p style="text-align: right;">254</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 expected at the time is that it would reduce</p> <p>3 the over-production problem that plagued the</p> <p>4 egg industry. Right?</p> <p>5 MS. LEVINE: Object to the form</p> <p>6 of the question. Mischaracterizes the</p> <p>7 witness' testimony. He's answered</p> <p>8 this question. He may answer it</p> <p>9 again.</p> <p>10 THE WITNESS: I think she</p> <p>11 provided an answer.</p> <p>12 BY MR. OLSON:</p> <p>13 Q. She sure did. But let's get</p> <p>14 your answer. What was expected at the time</p> <p>15 was that an increase in space allowance would</p> <p>16 reduce the over-production problem that had</p> <p>17 plagued the egg industry. Correct?</p> <p>18 MS. LEVINE: Object to the form</p> <p>19 of the question. Asked and answered.</p> <p>20 THE WITNESS: Can I explain that</p> <p>21 or do I just have to answer yes or no?</p> <p>22 BY MR. OLSON:</p> <p>23 Q. Let's start with yes or no.</p> <p>24 MS. LEVINE: Object to the form</p> <p>25 of the question. Doesn't call for a</p>	<p style="text-align: right;">256</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 plagued the egg industry every 3-5 years."</p> <p>3 Q. Do you have an independent</p> <p>4 recollection of this meeting?</p> <p>5 A. I do not.</p> <p>6 Q. So the best source of what was</p> <p>7 discussed at this meeting is this document.</p> <p>8 Right?</p> <p>9 MS. LEVINE: Object to the form</p> <p>10 of the question.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MR. OLSON:</p> <p>13 Q. You can put that aside.</p> <p>14 - - -</p> <p>15 (Exhibit Gregory-24, 8/29/00</p> <p>16 Letter, Bates MOARK0020647 -</p> <p>17 MOARK0020652, was marked for</p> <p>18 identification.)</p> <p>19 - - -</p> <p>20 BY MR. OLSON:</p> <p>21 Q. Let me hand you what we've</p> <p>22 marked as Gregory-24. This is a document</p> <p>23 Bates stamped MOARK0020647 through 20652.</p> <p>24 I'll ask if you can identify it as a letter</p> <p>25 with a couple of attachments that you sent to</p>
<p style="text-align: right;">255</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 yes or no.</p> <p>3 THE WITNESS: I'm not sure I can</p> <p>4 answer it yes or no.</p> <p>5 BY MR. OLSON:</p> <p>6 Q. Well, let's look at the second</p> <p>7 page of the document and see the heading</p> <p>8 called "Comments"?</p> <p>9 A. Uh-huh.</p> <p>10 Q. It says, "Uniform application</p> <p>11 of minimum space requirements within the U.S.</p> <p>12 would," and there are three points there.</p> <p>13 Right?</p> <p>14 A. Yes.</p> <p>15 Q. And can you read the third</p> <p>16 point into the record slowly, please?</p> <p>17 A. The voluntary cutting back is</p> <p>18 that what we were saying back with an</p> <p>19 incentive program.</p> <p>20 Q. Where it says point number 3,</p> <p>21 under "Comments" at the bottom.</p> <p>22 A. You're still on page 1?</p> <p>23 Q. No, page 2.</p> <p>24 A. Comments. Oh, okay. "It would</p> <p>25 reduce the over-production problem that has</p>	<p style="text-align: right;">257</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 UEP members on August 29, 2000?</p> <p>3 A. I must admit -- I must say so</p> <p>4 because it's my signature.</p> <p>5 Q. And why don't you go ahead and</p> <p>6 just review your letter quickly.</p> <p>7 A. (Reviewing document.) Okay.</p> <p>8 Q. Now, what you're informing UEP</p> <p>9 members of at this time is that UEP was going</p> <p>10 to assume the management of USEM. Correct?</p> <p>11 A. Yes.</p> <p>12 Q. It would do that primarily for</p> <p>13 the purpose of coordinating industry-wide</p> <p>14 export shipments. Correct?</p> <p>15 A. Yes.</p> <p>16 Q. Why was UEP going to assume the</p> <p>17 management of USEM at this time?</p> <p>18 A. The United States Egg Marketers</p> <p>19 Board of Directors came and asked UEP if they</p> <p>20 would take over the management of their</p> <p>21 cooperative.</p> <p>22 Q. And did you have an</p> <p>23 understanding of why they made that request?</p> <p>24 A. Yes. Their president and CEO</p> <p>25 who had actually been there from the very</p>

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<p style="text-align: right;">258</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 beginning, he was retiring and they said that</p> <p>3 they could not find a suitable replacement.</p> <p>4 Q. And the attachments -- just one</p> <p>5 point to look at, there's an attachment</p> <p>6 that's titled, "BENEFITS OF EXPORT ORDER AND</p> <p>7 WHY EVERYONE SHOULD PARTICIPATE"?</p> <p>8 A. Yes.</p> <p>9 Q. And there is a question, it</p> <p>10 says, "Why should you be an export</p> <p>11 participating member of USEM?"</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Then the answer is, "The intent</p> <p>15 of taking a large volume export order for a</p> <p>16 short period of delivery is to reduce the</p> <p>17 domestic supply and thereby increase the</p> <p>18 domestic price of eggs."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And that's consistent with your</p> <p>22 knowledge. Correct?</p> <p>23 A. Yes.</p> <p>24 MR. OLSON: Put that aside.</p> <p>25 - - -</p>	<p style="text-align: right;">260</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 members of that committee?</p> <p>3 A. This is 13 -- 12 years ago,</p> <p>4 more than 12 years ago, so without looking at</p> <p>5 the documents back in those days, I don't</p> <p>6 know that for sure, but I don't recognize</p> <p>7 anyone here that is not. So I assume that's</p> <p>8 right, but I want to point out to you that it</p> <p>9 doesn't say others.</p> <p>10 Q. Fair enough.</p> <p>11 A. So I base -- based on that, I</p> <p>12 must conclude that these were marketing price</p> <p>13 discovery members. And, yes, I did write</p> <p>14 this letter.</p> <p>15 Q. You say, "It's been an</p> <p>16 unbelievable year," right, referring to the</p> <p>17 year 2000? Correct?</p> <p>18 A. Yes.</p> <p>19 Q. And what you're referring to is</p> <p>20 that there was a turnaround and prices have</p> <p>21 gone up. Correct?</p> <p>22 A. I don't know.</p> <p>23 MS. LEVINE: Object to the form.</p> <p>24 THE WITNESS: I don't know what</p> <p>25 an unbelievable year means.</p>
<p style="text-align: right;">259</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 (Exhibit Gregory-25, 12/20/00</p> <p>3 Letter, Bates UE0146962 - UE0146964,</p> <p>4 was marked for identification.)</p> <p>5 - - -</p> <p>6 BY MR. OLSON:</p> <p>7 Q. I'm going to hand you what's</p> <p>8 been marked Gregory-25.</p> <p>9 A. When do we get a chance to tell</p> <p>10 our side of the story?</p> <p>11 MS. LEVINE: Mr. Gregory, as I</p> <p>12 told you, everyone has their</p> <p>13 opportunity. We take turns.</p> <p>14 THE WITNESS: Okay.</p> <p>15 BY MR. OLSON:</p> <p>16 Q. All right. The document I've</p> <p>17 handed you, Gregory-25 is Bates stamped</p> <p>18 UE0146962 through 964. I'll ask you if you</p> <p>19 can identify this as a letter you sent with</p> <p>20 an attachment to UEP marketing and price</p> <p>21 discovery committee members and others on</p> <p>22 December 20, 2000.</p> <p>23 A. First of all, it does not say</p> <p>24 others, I don't believe.</p> <p>25 Q. Are the people listed here the</p>	<p style="text-align: right;">261</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. OLSON:</p> <p>3 Q. Have you read the letter?</p> <p>4 A. No.</p> <p>5 Q. Why don't you go ahead and</p> <p>6 review the letter.</p> <p>7 A. (Reviewing document.)</p> <p>8 So what I'm trying to do is</p> <p>9 give a pat on the back to the people that</p> <p>10 served on these committees for having done a</p> <p>11 good job.</p> <p>12 Q. They did such a good job that</p> <p>13 you believed that every egg producer realized</p> <p>14 a major increase in revenue that year.</p> <p>15 Right?</p> <p>16 A. Yes.</p> <p>17 Q. And that was because prices</p> <p>18 improved?</p> <p>19 A. Yes.</p> <p>20 Q. And you talk about what, in</p> <p>21 your view, caused the market to turn around.</p> <p>22 Right?</p> <p>23 MS. LEVINE: Object to the form</p> <p>24 of the question.</p> <p>25 THE WITNESS: I'm trying to</p>

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<p style="text-align: right;">262</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 compliment them on what they did.</p> <p>3 These were not the only factors</p> <p>4 obviously that caused a change in the</p> <p>5 market.</p> <p>6 BY MR. OLSON:</p> <p>7 Q. And what they did during the</p> <p>8 year was put together these programs for</p> <p>9 reducing flock size and reducing chick hatch.</p> <p>10 Correct?</p> <p>11 MS. LEVINE: Object to the form</p> <p>12 of the question.</p> <p>13 THE WITNESS: Well, it does not</p> <p>14 say so there, that might be assumed.</p> <p>15 BY MR. OLSON:</p> <p>16 Q. Well, actually if you look at</p> <p>17 the third full paragraph, it says, "It was</p> <p>18 those of you serving on the UEP Marketing</p> <p>19 Committee that made reasonable..."</p> <p>20 A. Yes, it does say that there.</p> <p>21 Yes. I'm sorry.</p> <p>22 Q. I'll just finish for the</p> <p>23 record. "...reasonable recommendations of</p> <p>24 reducing the flock size and reducing the</p> <p>25 chick hatch."</p>	<p style="text-align: right;">264</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 that "Recommendations made by UEP's Marketing</p> <p>3 Committee to reduce the chick hatch and hen</p> <p>4 inventory resulted in improved egg prices</p> <p>5 starting in August." Right?</p> <p>6 A. Uh-huh.</p> <p>7 Q. And that's consistent with your</p> <p>8 recollection as well. Correct?</p> <p>9 MS. LEVINE: Object to the form</p> <p>10 of the question.</p> <p>11 THE WITNESS: Again, this is 12</p> <p>12 years ago, so I would have to --</p> <p>13 BY MR. OLSON:</p> <p>14 Q. But if you said it, it was</p> <p>15 likely consistent with your knowledge at the</p> <p>16 time?</p> <p>17 A. At the time, yes.</p> <p>18 Q. You can put that aside.</p> <p>19 - - -</p> <p>20 (Exhibit Gregory-26, UEP Shell</p> <p>21 Egg Marketing Committee Conference</p> <p>22 Call -- June 4, 2001 Minutes, Bates</p> <p>23 UE0153464 & UE0153465, was marked for</p> <p>24 identification.)</p> <p>25 - - -</p>
<p style="text-align: right;">263</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes.</p> <p>3 Q. And those are those programs we</p> <p>4 talked about before. Right?</p> <p>5 A. Yes. Yes.</p> <p>6 Q. And then you say, "The industry</p> <p>7 followed your recommendations and adjustments</p> <p>8 were made without anyone going broke."</p> <p>9 Right?</p> <p>10 A. Yes.</p> <p>11 Q. And that's consistent with your</p> <p>12 recollection. Correct?</p> <p>13 A. Yes.</p> <p>14 Q. And you also on the top of</p> <p>15 page 2 say, it was those of you that are USEM</p> <p>16 members that supported the export efforts,</p> <p>17 and that helped reduce domestic supply as</p> <p>18 well. Correct?</p> <p>19 A. Yes.</p> <p>20 Q. If you turn to the attachment</p> <p>21 that's titled, "FINANCIAL IMPACT OF ACTIONS</p> <p>22 TAKEN BY UEP/USEM TO ADDRESS INDUSTRY</p> <p>23 ECONOMICS." Do you see that?</p> <p>24 A. Uh-huh.</p> <p>25 Q. One of the things you say is</p>	<p style="text-align: right;">265</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. OLSON:</p> <p>3 Q. Let me hand you what we've</p> <p>4 marked as Gregory-26. This is document Bates</p> <p>5 stamped UE0153464 through 465. I'll ask you</p> <p>6 if you can identify it as minutes that you</p> <p>7 took of a "UEP Shell Egg Marketing Committee</p> <p>8 Conference Call -- June 4, 2001"?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall this meeting?</p> <p>11 A. Would you give me time to read</p> <p>12 it first?</p> <p>13 Q. Sure. Absolutely.</p> <p>14 A. (Reviewing document.)</p> <p>15 I have read the -- I have read</p> <p>16 the document.</p> <p>17 Q. And do you recall this meeting?</p> <p>18 A. I do not recall it.</p> <p>19 Q. So the best source for you to</p> <p>20 know what happened at this meeting would be</p> <p>21 the minutes you prepared. Correct?</p> <p>22 A. Yes.</p> <p>23 MS. LEVINE: Object to the form</p> <p>24 of the question.</p> <p>25 BY MR. OLSON:</p>

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<p style="text-align: right;">266</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. This reflects that you and</p> <p>3 Dolph Baker had submitted for the committee's</p> <p>4 consideration recommendations of an action</p> <p>5 plan that called for early hen disposal and</p> <p>6 early molt. Do you see that?</p> <p>7 A. That's what the minutes say,</p> <p>8 yes.</p> <p>9 Q. Were there times that you</p> <p>10 became involved in recommending programs like</p> <p>11 that to the Marketing Committee?</p> <p>12 A. No. But as the staff member</p> <p>13 responsible for -- you know, the chairman of</p> <p>14 the committee would discuss some of the</p> <p>15 stuff, you know, in advance with me.</p> <p>16 Q. Do you see a reference to</p> <p>17 statements made by an Arnie Riebli?</p> <p>18 A. Yes.</p> <p>19 Q. Who is Mr. Riebli?</p> <p>20 A. He's an egg farmer from</p> <p>21 Northern California.</p> <p>22 Q. Do you remember what company</p> <p>23 he's at?</p> <p>24 A. Sunrise Egg Farm.</p> <p>25 Q. And the minutes say, Mr. Riebli</p>	<p style="text-align: right;">268</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 The witness says he doesn't remember</p> <p>3 the meeting.</p> <p>4 THE WITNESS: But it doesn't</p> <p>5 even say that.</p> <p>6 BY MR. OLSON:</p> <p>7 Q. Do you recall what he -- do you</p> <p>8 recall the discussion?</p> <p>9 A. No, I do not.</p> <p>10 Q. You can put this aside.</p> <p>11 Now, who is Joy Mench?</p> <p>12 A. She's Dr. Joy Mench. She is</p> <p>13 with the University of California Davis. She</p> <p>14 is a member of the Scientific Advisory</p> <p>15 Committee.</p> <p>16 Q. Is she still a member of that</p> <p>17 committee today?</p> <p>18 A. Yes.</p> <p>19 Q. What was her role in the</p> <p>20 Scientific Advisory Committee?</p> <p>21 A. Dr. Armstrong gave each of the</p> <p>22 Scientific Committee members a project as</p> <p>23 such to do research on certain things. She</p> <p>24 was -- had done a lot of work on like cage</p> <p>25 space and cage configuration and those kind</p>
<p style="text-align: right;">267</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 questioned whether it was time to call for</p> <p>3 mandatory implementation of the industry</p> <p>4 Animal Welfare Guidelines. Do you see that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. "Were the guidelines in effect</p> <p>7 this would take care of over production."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Do you have an understanding</p> <p>11 why Mr. Riebli thought that putting the</p> <p>12 guidelines in effect would take care of the</p> <p>13 over production?</p> <p>14 MR. McKENNEY: Object to the</p> <p>15 form. Mischaracterizes the document.</p> <p>16 THE WITNESS: Everybody had</p> <p>17 opinion. Everybody had speculation</p> <p>18 about what would happen. He's only</p> <p>19 expressing what his thoughts would be.</p> <p>20 BY MR. OLSON:</p> <p>21 Q. Well, just to be -- to cut to</p> <p>22 the chase, what he's talking about is the</p> <p>23 cage space requirements. Right?</p> <p>24 MS. LEVINE: Objection to --</p> <p>25 object to the form of the question.</p>	<p style="text-align: right;">269</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 of things. So she primarily was the lead</p> <p>3 person on that part of the scientific work.</p> <p>4 - - -</p> <p>5 (Exhibit Gregory-27, E-mail</p> <p>6 chain, Bates UE0840235 - UE0840238,</p> <p>7 was marked for identification.)</p> <p>8 - - -</p> <p>9 BY MR. OLSON:</p> <p>10 Q. Let me hand you what we've</p> <p>11 marked as Gregory-27, e-mail chain. Why</p> <p>12 don't you go ahead and review it, please.</p> <p>13 Oh, and this document is Bates --</p> <p>14 UNIDENTIFIED SPEAKER: Do you</p> <p>15 have a Bates range for 27?</p> <p>16 MR. OLSON: Yes. It is</p> <p>17 UE0840236 through 238.</p> <p>18 UNIDENTIFIED SPEAKER: Thank</p> <p>19 you.</p> <p>20 THE WITNESS: (Reviewing</p> <p>21 document.)</p> <p>22 Okay, I've scanned it quickly.</p> <p>23 BY MR. OLSON:</p> <p>24 Q. Thank you. Can you identify</p> <p>25 this as an e-mail exchange you had with</p>

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270	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Dr. Mench in August of 2001?</p> <p>3 A. Yes.</p> <p>4 Q. It's about the scientific</p> <p>5 recommendations about cage space and feeder</p> <p>6 space. Right?</p> <p>7 A. Yes.</p> <p>8 Q. And it starts with you</p> <p>9 contacting Dr. Mench about the guidelines</p> <p>10 referring to space allowance should be in the</p> <p>11 range of 67 to 86 square inches of usable</p> <p>12 space per bird. Right?</p> <p>13 A. Yes.</p> <p>14 Q. You asked how she would break</p> <p>15 that down. Right?</p> <p>16 A. Yes.</p> <p>17 Q. She responds to you and she</p> <p>18 says, "I think we are getting too hung up on</p> <p>19 floor space here, when it is only one element</p> <p>20 of the hen's environment."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. What's your understanding of</p> <p>24 what she was saying there?</p> <p>25 MS. LEVINE: Object to the form</p>	272	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 who was supposed to review the research on</p> <p>3 this issue. Right?</p> <p>4 A. Right.</p> <p>5 Q. Her recommendation that no hen</p> <p>6 should be given less than 72 square inches,</p> <p>7 that never was adopted by UEP. Right?</p> <p>8 A. Read that again?</p> <p>9 Q. Dr. Mench's view, based on the</p> <p>10 research she reviewed, that no hen should be</p> <p>11 given less than 72 square inches, that was</p> <p>12 not implemented as part of the UEP</p> <p>13 guidelines. Right?</p> <p>14 A. But you've only read part of</p> <p>15 the paragraph.</p> <p>16 Q. I'm going to continue, but this</p> <p>17 aspect of it was not adopted. Correct?</p> <p>18 MS. LEVINE: Object to the form</p> <p>19 of the question.</p> <p>20 BY MR. OLSON:</p> <p>21 Q. Let me ask it this way: Under</p> <p>22 the UEP Animal Welfare Guidelines as adopted</p> <p>23 by UEP --</p> <p>24 A. Do you want to know why?</p> <p>25 Q. -- is there any requirement</p>
271	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 of the question.</p> <p>3 THE WITNESS: I don't know what</p> <p>4 she's referring to.</p> <p>5 BY MR. OLSON:</p> <p>6 Q. Well, she says, "As you know, I</p> <p>7 got pushed into setting a range by the</p> <p>8 producer committee..."</p> <p>9 Do you see that?</p> <p>10 A. I see that.</p> <p>11 Q. Do you know what she's</p> <p>12 referring to there?</p> <p>13 A. No, I do not.</p> <p>14 Q. Were you concerned when you</p> <p>15 heard that?</p> <p>16 MS. LEVINE: Object to the form</p> <p>17 of the question.</p> <p>18 THE WITNESS: I don't recall.</p> <p>19 BY MR. OLSON:</p> <p>20 Q. She says, "...my own opinion,</p> <p>21 based on the research I reviewed, is that NO</p> <p>22 hen...", she put no in all caps, "...should</p> <p>23 be given less than 72 square inches." Right?</p> <p>24 A. Yes.</p> <p>25 Q. She was the scientific member</p>	273	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 that all hens get a minimum of 72 square</p> <p>3 inches?</p> <p>4 MS. LEVINE: Object to the form</p> <p>5 of the question. You can answer.</p> <p>6 THE WITNESS: No, but there's a</p> <p>7 reason. Do you want to know the</p> <p>8 reason?</p> <p>9 BY MR. OLSON:</p> <p>10 Q. Let's just continue with what</p> <p>11 she said in the paragraph. She said,</p> <p>12 "However, to me one of the most important</p> <p>13 considerations is still feeder space..."</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. She says, "...which we seem to</p> <p>17 have stopped talking about somewhere along</p> <p>18 the line..."</p> <p>19 Do you know what she's</p> <p>20 referring to there?</p> <p>21 A. No, I do not.</p> <p>22 Q. She says, "...each hen MUST</p> <p>23 have four inches...", and she puts must in</p> <p>24 all caps. Right?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">274</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. But that was never adopted as a</p> <p>3 requirement of the program either. Right?</p> <p>4 A. Right.</p> <p>5 Q. And when you respond to her,</p> <p>6 you say, "We fully understand the feeder</p> <p>7 space requirement."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. What did you mean, you fully</p> <p>11 understood the --</p> <p>12 A. I fully understood her</p> <p>13 recommendation for that.</p> <p>14 Q. And then with regard to the</p> <p>15 cage space and her view that the research</p> <p>16 says no hen should be given less than</p> <p>17 72 square inches, what you say is "Now that</p> <p>18 the Scientific Committee report is out and</p> <p>19 accepted by everyone, I don't believe we can</p> <p>20 make it so simply to say that every bird</p> <p>21 needs at least 72 inches." Right?</p> <p>22 A. Yes.</p> <p>23 Q. So what you told her is it's</p> <p>24 out already, we can't change it. That's what</p> <p>25 you were saying.</p>	<p style="text-align: right;">276</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 kind of things. If we had -- what we</p> <p>3 determined was that the 72 inches is simply</p> <p>4 an average between white birds and brown</p> <p>5 birds. And you will see that she recognizes</p> <p>6 that the highline bird is much smaller and</p> <p>7 doesn't need that amount of space. And at</p> <p>8 that point in time, probably 95 percent of</p> <p>9 all the chickens in the United States anyway</p> <p>10 were highline birds.</p> <p>11 You're not interested in me, I</p> <p>12 can tell by the way you're looking.</p> <p>13 MS. LEVINE: Mr. Gregory, finish</p> <p>14 your answer.</p> <p>15 BY MR. OLSON:</p> <p>16 Q. Finish what you're saying.</p> <p>17 A. Well, I'd like him to at least</p> <p>18 look me like I look at him.</p> <p>19 So anyway, what it is, we have</p> <p>20 an existing egg industry. These -- all these</p> <p>21 producers have houses with cages in them and</p> <p>22 so forth. And they are of different sizes</p> <p>23 and shapes and this kind of thing. Had you</p> <p>24 recommended things like a hard 72 inches and</p> <p>25 had you recommended a hard four inches as you</p>
<p style="text-align: right;">275</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 MS. LEVINE: Object to the form</p> <p>3 of the question. You can answer the</p> <p>4 question, Mr. Gregory.</p> <p>5 THE WITNESS: Say it again, I'm</p> <p>6 sorry?</p> <p>7 MS. LEVINE: It's his question.</p> <p>8 BY MR. OLSON:</p> <p>9 Q. She was saying you can answer</p> <p>10 the question.</p> <p>11 What you were --</p> <p>12 A. Can I elaborate at this time?</p> <p>13 MS. LEVINE: You can answer the</p> <p>14 question the way ever you need to</p> <p>15 answer the question, Mr. Gregory.</p> <p>16 BY MR. OLSON:</p> <p>17 Q. The point you are making is --</p> <p>18 sorry, it's to --</p> <p>19 A. You didn't allow me to answer</p> <p>20 the question.</p> <p>21 Q. Okay.</p> <p>22 A. So, yes, what we're talking</p> <p>23 about is a commercial egg industry. We're</p> <p>24 not talking about just a farm setting, you</p> <p>25 know, that thing, individual birds and those</p>	<p style="text-align: right;">277</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 got to do this now as an example or over some</p> <p>3 short period of time, it would have</p> <p>4 depopulated the flock of this industry to</p> <p>5 points that it would have been -- it would</p> <p>6 have been more than 50 million hens. It</p> <p>7 would have shorted the egg supply so much</p> <p>8 that we couldn't fill our customers' orders.</p> <p>9 So the producers had to look at these as</p> <p>10 recommendations. They had to then figure out</p> <p>11 how do you do this without creating a market</p> <p>12 disruption. How do you do this without</p> <p>13 creating undue price increases. So the fact</p> <p>14 of it is it learned through feeder space</p> <p>15 research later on the birds didn't need four</p> <p>16 inches of space and the 72 inches was simply</p> <p>17 an average that they came with. And we</p> <p>18 figured out a way to phase all this in to 67</p> <p>19 or 76 inches so that there would be no market</p> <p>20 disruption and it would be more acceptable on</p> <p>21 a timeline with our customers.</p> <p>22 Did you listen to me? It's on</p> <p>23 the record, I guess, but you didn't listen to</p> <p>24 me. He wasn't interested in the answer, were</p> <p>25 you?</p>

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<p style="text-align: right;">278</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Mr. Gregory, I'm listening to</p> <p>3 you. If I'm looking away --</p> <p>4 A. I think that's -- the reason I</p> <p>5 say that, I think that's offensive. I think</p> <p>6 that you should be respectful enough of me to</p> <p>7 listen to my answer is what I'm saying.</p> <p>8 Q. When I look away, I'm looking</p> <p>9 at a screen that has your words. If I'm</p> <p>10 missed a word, I'm looking to see exactly</p> <p>11 what you said. I'm extremely interested in</p> <p>12 everything you're saying.</p> <p>13 A. Okay.</p> <p>14 Q. So --</p> <p>15 A. Did you understand that we did</p> <p>16 this so that we would not depopulate too many</p> <p>17 birds, we would not have a market disruption,</p> <p>18 you understand that?</p> <p>19 Q. That's why you made the</p> <p>20 requirement 67 inches for the white Leghorn</p> <p>21 hens as opposed to 72?</p> <p>22 A. Yes.</p> <p>23 MS. LEVINE: Object to the form</p> <p>24 of the question. The witness has</p> <p>25 answered the question.</p>	<p style="text-align: right;">280</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. You could have changed it to 72</p> <p>3 inches?</p> <p>4 A. You're saying our industry</p> <p>5 could have changed it to 72 inches?</p> <p>6 Q. The requirement of the UEP</p> <p>7 guidelines, you could have changed to</p> <p>8 72 inches?</p> <p>9 MS. LEVINE: Objection to the</p> <p>10 form.</p> <p>11 THE WITNESS: No.</p> <p>12 BY MR. OLSON:</p> <p>13 Q. Why not?</p> <p>14 A. I just got done telling you, to</p> <p>15 do that would have depopulated so many birds,</p> <p>16 that it would have been market disruption to</p> <p>17 do it. We have customers we've got to take</p> <p>18 care of.</p> <p>19 Q. When Dr. Mench wrote back to</p> <p>20 you that the lowest end of the range,</p> <p>21 67 inches, should be used only when you have</p> <p>22 both small Leghorns and a shallow cage</p> <p>23 system, that very few producers had, did that</p> <p>24 raise any concerns for you about whether the</p> <p>25 67-inch requirement was the right one?</p>
<p style="text-align: right;">279</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. OLSON:</p> <p>3 Q. And when you wrote back to</p> <p>4 Dr. Mench, what you told her is that we can't</p> <p>5 make it 72 because the Scientific Committee</p> <p>6 report is already out and accepted. Right?</p> <p>7 MS. LEVINE: Objection to the</p> <p>8 form of the question. Asked and</p> <p>9 answered.</p> <p>10 THE WITNESS: Again, this is in</p> <p>11 August of 2001. We didn't finally</p> <p>12 publish our producer animal husbandry</p> <p>13 program until, I think, April 2002,</p> <p>14 whatever it was.</p> <p>15 BY MR. OLSON:</p> <p>16 Q. Right. So the reason that you</p> <p>17 gave Dr. Mench just simply wasn't true?</p> <p>18 MS. LEVINE: Objection to the</p> <p>19 form of the question.</p> <p>20 BY MR. OLSON:</p> <p>21 Q. You could have made a change?</p> <p>22 MS. LEVINE: Objection.</p> <p>23 BY MR. OLSON:</p> <p>24 Q. You could have changed it?</p> <p>25 A. What?</p>	<p style="text-align: right;">281</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. It did not, because the problem</p> <p>3 here that we're dealing with, we're trying to</p> <p>4 treat all egg producers equally. We are not</p> <p>5 trying to penalize you if you have a certain</p> <p>6 kind of a cage. That will come in the -- as</p> <p>7 we advance through this program, people will</p> <p>8 build new housing and will build those</p> <p>9 housing makeup based upon these</p> <p>10 recommendations. But you cannot jeopardize</p> <p>11 people in the industry like that until</p> <p>12 they've had time to build new housing to</p> <p>13 replace that.</p> <p>14 - - -</p> <p>15 (Exhibit Gregory-28, 9/10/01</p> <p>16 Letter, Bates CM00182536 & CM00182537,</p> <p>17 was marked for identification.)</p> <p>18 - - -</p> <p>19 BY MR. OLSON:</p> <p>20 Q. Let me hand you what's been</p> <p>21 marked Gregory-28. This is Bates stamped</p> <p>22 CM00182536 through 537. Why don't you</p> <p>23 briefly review it, let me know when you're</p> <p>24 done.</p> <p>25 A. (Reviewing document.)</p>

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<p style="text-align: right;">282</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 I've read it.</p> <p>3 Q. Can you identify it as a letter</p> <p>4 you sent to the UEP members of area 5 on</p> <p>5 September 10, 2001?</p> <p>6 A. I see it has my name on it, so</p> <p>7 yes.</p> <p>8 Q. It refers to the fact that</p> <p>9 there had been a meeting in Atlanta that same</p> <p>10 September. Correct?</p> <p>11 A. Yes.</p> <p>12 Q. You say, "We believe that you</p> <p>13 made a commitment to participate in a program</p> <p>14 and to validate that you are meeting this</p> <p>15 commitment." Right?</p> <p>16 A. Yes.</p> <p>17 Q. That program was one to reduce</p> <p>18 flock size and future chick placements.</p> <p>19 Right?</p> <p>20 A. Yes.</p> <p>21 Q. You provided those members a</p> <p>22 commitment form for them to sign and return</p> <p>23 to the UEP office. Correct?</p> <p>24 A. Yes, what's your objection to</p> <p>25 that?</p>	<p style="text-align: right;">284</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 of the question.</p> <p>3 BY MR. OLSON:</p> <p>4 Q. Under either of the options you</p> <p>5 checked, the person was acknowledging or</p> <p>6 recognizing that they may be required to</p> <p>7 validate what they've done. Correct?</p> <p>8 MS. LEVINE: Objection to the</p> <p>9 form of the question.</p> <p>10 THE WITNESS: That's what it</p> <p>11 states, yes.</p> <p>12 BY MR. OLSON:</p> <p>13 Q. That's what UEP was asking them</p> <p>14 to agree to. Right?</p> <p>15 A. That's what this document</p> <p>16 states.</p> <p>17 Q. And then the other option which</p> <p>18 is delaying chick placements, this document</p> <p>19 asks the members to agree that UEP could</p> <p>20 verify they were doing what they say they</p> <p>21 were doing. Right?</p> <p>22 MS. LEVINE: Object to the form</p> <p>23 of the question.</p> <p>24 THE WITNESS: That's what the</p> <p>25 document says.</p>
<p style="text-align: right;">283</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. That's what's attached?</p> <p>3 A. I asked what's your objection</p> <p>4 to that?</p> <p>5 Q. I don't have any objection.</p> <p>6 That's what you attached to the document.</p> <p>7 Correct?</p> <p>8 A. What are you trying to imply by</p> <p>9 that I'm saying?</p> <p>10 Q. Just trying to find out what</p> <p>11 happened.</p> <p>12 A. Okay.</p> <p>13 Q. So what you provided these</p> <p>14 people is something called a commitment to</p> <p>15 change. Right?</p> <p>16 A. Yes. Uh-huh.</p> <p>17 Q. There were basically two</p> <p>18 options given, there were two things they</p> <p>19 were asked to do, they were given an option</p> <p>20 about how to do each one. Right?</p> <p>21 A. Yes. Uh-huh.</p> <p>22 Q. Here it says there's also this</p> <p>23 aspect that -- well, for the first one which</p> <p>24 goes to reducing flock size. Right?</p> <p>25 MS. LEVINE: Object to the form</p>	<p style="text-align: right;">285</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. OLSON:</p> <p>3 Q. You can put that aside.</p> <p>4 Who is Paul Bahan?</p> <p>5 A. Paul Bahan was an egg farmer</p> <p>6 from Southern California, and was at one time</p> <p>7 chair the producer -- chairman of the</p> <p>8 Producer Committee for Animal Welfare.</p> <p>9 Q. Did Mr. Bahan ever provide you</p> <p>10 with legal advice?</p> <p>11 A. No.</p> <p>12 - - -</p> <p>13 (Exhibit Gregory-29, Special</p> <p>14 Called UEP Marketing Conference Call</p> <p>15 9/24/01, Bates UE0153457 & UE0153458,</p> <p>16 was marked for identification.)</p> <p>17 - - -</p> <p>18 BY MR. OLSON:</p> <p>19 Q. I'm going to hand you what</p> <p>20 we've marked as Gregory-29. This is a</p> <p>21 document that we believe has been improperly</p> <p>22 redacted. We've asked for an un-redacted</p> <p>23 version to be produced which has not been</p> <p>24 responded to, so we're going to cover --</p> <p>25 MS. LEVINE: UEP -- let me</p>

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<p style="text-align: right;">286</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 respond to that. UEP has put this</p> <p>3 document, marked this document as</p> <p>4 privileged, the redacted portion. It</p> <p>5 has a belief that legal advice was</p> <p>6 given and that it was properly</p> <p>7 retained as legal advice.</p> <p>8 MR. OLSON: Was given by Mr.</p> <p>9 Bahan?</p> <p>10 MS. LEVINE: Given by counsel.</p> <p>11 THE WITNESS: Well, can I --</p> <p>12 MR. OLSON: We believe that the</p> <p>13 redaction is improper and we reserve</p> <p>14 the right to bring you back if and</p> <p>15 when the court addresses that. For</p> <p>16 the record, you don't have to worry</p> <p>17 about it.</p> <p>18 MS. LEVINE: To be clear, UEP</p> <p>19 members, Mr. Bahan requested legal</p> <p>20 advice of Mr. Isaacson. Wait until</p> <p>21 you get a question, Mr. Gregory, on</p> <p>22 this document.</p> <p>23 THE WITNESS: I think there is</p> <p>24 an answer for it, though.</p> <p>25 MR. OLSON: We both reserve all</p>	<p style="text-align: right;">288</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 document, there's a reference to a motion</p> <p>3 being made by a Dave Staples. Do you see</p> <p>4 that?</p> <p>5 A. Yes.</p> <p>6 Q. Do you recall who Mr. Staples</p> <p>7 is with?</p> <p>8 A. He was the -- he was an egg</p> <p>9 farmer from Wisconsin. Name of the company</p> <p>10 is Creekwood Farms.</p> <p>11 Q. And the motion was "...to</p> <p>12 authorize UEP staff to work with Irving</p> <p>13 Isaacson on a number of voluntary options</p> <p>14 that would achieve a 5% flock reduction and</p> <p>15 chick hatch reduction program for</p> <p>16 presentation to the membership."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Do you recall that motion being</p> <p>20 made?</p> <p>21 MS. LEVINE: Objection to form</p> <p>22 of the question. Asked and answered.</p> <p>23 THE WITNESS: I do not recall a</p> <p>24 motion being made. I am acknowledging</p> <p>25 that I read it now.</p>
<p style="text-align: right;">287</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 rights in this. So this titled --</p> <p>3 THE WITNESS: I don't want to</p> <p>4 have to come back and answer it if I</p> <p>5 can do it today, I'll give --</p> <p>6 MS. LEVINE: Let's see what the</p> <p>7 question is.</p> <p>8 THE WITNESS: Yeah, okay.</p> <p>9 BY MR. OLSON:</p> <p>10 Q. This is Bates stamped UE0153457</p> <p>11 through 458. Can you identify it as the</p> <p>12 minutes of a special called UEP marketing</p> <p>13 conference call dated September 24, 2001?</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall this meeting?</p> <p>16 A. Again, I cannot recall it.</p> <p>17 Q. Is it possible that reviewing</p> <p>18 the minutes of the meeting would help refresh</p> <p>19 your recollection about the meeting?</p> <p>20 A. Yes.</p> <p>21 Q. Why don't you briefly review</p> <p>22 what's here.</p> <p>23 A. (Reviewing document.)</p> <p>24 I've read it.</p> <p>25 Q. Now, at the end of the</p>	<p style="text-align: right;">289</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. OLSON:</p> <p>3 Q. The document indicates the</p> <p>4 motion carried. Correct?</p> <p>5 A. It does.</p> <p>6 Q. Do you recall working with Mr.</p> <p>7 Isaacson on those types of options?</p> <p>8 A. I do not.</p> <p>9 Q. You can put that aside.</p> <p>10 MS. LEVINE: I think we noticed</p> <p>11 this deposition between 9:00 and 3:00.</p> <p>12 It's a couple of minutes after 3:00.</p> <p>13 Start again tomorrow morning at 9:00.</p> <p>14 MR. OLSON: We can -- do you</p> <p>15 want to stop now, is that what you're</p> <p>16 saying?</p> <p>17 MS. LEVINE: Yes.</p> <p>18 MR. OLSON: Okay.</p> <p>19 VIDEOGRAPHER: The time is 3:05.</p> <p>20 We're going off the video record.</p> <p>21 - - -</p> <p>22 (A recess was taken.)</p> <p>23 - - -</p> <p>24 VIDEOGRAPHER: The time is 3:19.</p> <p>25 We are back on the video record.</p>

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<p style="text-align: right;">290</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 (Exhibit Gregory-30, Producer</p> <p>4 Committee for Animal Welfare, November</p> <p>5 14, 2001 Chicago, Illinois Minutes,</p> <p>6 Bates UE0174658 & UE0174659, was</p> <p>7 marked for identification.)</p> <p>8 - - -</p> <p>9 BY MR. OLSON:</p> <p>10 Q. Mr. Gregory, I've handed you</p> <p>11 what's been marked as Gregory Exhibit 30.</p> <p>12 This document is Bates stamped UE0174658</p> <p>13 through 659. And I'll ask if you can</p> <p>14 identify it as a -- the minutes that you took</p> <p>15 of a November 14, 2001, Producer Committee</p> <p>16 meeting?</p> <p>17 A. I recognize it by the fact that</p> <p>18 I have a copy of the document.</p> <p>19 Q. Now, there's a heading that</p> <p>20 says, "Summary of Guidelines for Retail." Do</p> <p>21 you know what that refers to?</p> <p>22 A. I know about our meetings with</p> <p>23 FMI, but I don't know what that means, no.</p> <p>24 Q. Were there different guidelines</p> <p>25 that were developed for retail -- the retail</p>	<p style="text-align: right;">292</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 phase-in plan. I don't recall when it --</p> <p>3 when the initial idea was brought forth.</p> <p>4 Q. Do you recall who had the</p> <p>5 initial idea of the phase-in plan?</p> <p>6 A. Ken Looper did.</p> <p>7 Q. What is this concept of a house</p> <p>8 average?</p> <p>9 A. Great question.</p> <p>10 Q. First of the day.</p> <p>11 A. Again, we had to recognize that</p> <p>12 if we were to meet the -- we had an industry</p> <p>13 with different kind of cages and all kind of</p> <p>14 different kind of housing, and we needed to</p> <p>15 design a program that was treating everybody</p> <p>16 equally and that didn't force some people out</p> <p>17 of the program. So in addition to the phase</p> <p>18 in of dates to implement increase in spacing,</p> <p>19 we recognized that until we could build new</p> <p>20 housing, we were going to have to live with</p> <p>21 the existing housing that we had. So if you</p> <p>22 were, and I'll just pick a number, if you</p> <p>23 were to -- it says here if you were to say</p> <p>24 61 square inches, some people would have a</p> <p>25 cage that maybe you could put eight birds in,</p>
<p style="text-align: right;">291</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 side of the business?</p> <p>3 A. No.</p> <p>4 Q. Then there's a heading -- I'm</p> <p>5 sorry, I forget, have you had a chance to</p> <p>6 review this?</p> <p>7 A. I've quickly looked at it.</p> <p>8 Q. There's a heading that says,</p> <p>9 "Cage Space Allowance."</p> <p>10 A. I'm sorry, I have not looked at</p> <p>11 it. I'm sorry, what --</p> <p>12 Q. Okay. I didn't think so.</p> <p>13 Please just go ahead. It's a short document.</p> <p>14 Just review it, please.</p> <p>15 A. (Reviewing document.) Okay.</p> <p>16 Q. So there's a section that's</p> <p>17 titled "Cage Space Allowance" on the first</p> <p>18 page.</p> <p>19 A. Yes.</p> <p>20 Q. And it says, "Looper again</p> <p>21 explained the concept of a phase-in plan..."</p> <p>22 A. Yes.</p> <p>23 Q. It goes on. Do you recall when</p> <p>24 the idea of a phase-in plan first arose?</p> <p>25 A. I recall the discussions of the</p>	<p style="text-align: right;">293</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 but, you know, the other guy would have a</p> <p>3 cage that was a different design and you</p> <p>4 could put nine in like I think. So we tried</p> <p>5 to create this so it was equal. So we come</p> <p>6 up with a house average concept. And the</p> <p>7 house average concept was that instead of</p> <p>8 measuring each individual cage during this</p> <p>9 period of the phase in, instead of measuring</p> <p>10 each individual cage, we would measure the</p> <p>11 total cage space within the entire house.</p> <p>12 Then we would divide that total cage space</p> <p>13 within the house by 61. And that would</p> <p>14 determine how many birds we could have in</p> <p>15 that house. Therefore, you would have</p> <p>16 approximately -- I'll use a number, let's say</p> <p>17 you had -- you were coming out with 6.5 birds</p> <p>18 per cage or something like that. Or 6.7</p> <p>19 birds per cage. And whatever the number was,</p> <p>20 you would then calculate within the house I</p> <p>21 will have so many cages with six birds in it,</p> <p>22 I will have so many cages with seven birds in</p> <p>23 it. It was understood that you would have</p> <p>24 normal mortality throughout the year. So,</p> <p>25 therefore, the idea was that as you have</p>

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<p style="text-align: right;">294</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 normal mortality throughout the year, now</p> <p>3 you've got that seventh bird that you could,</p> <p>4 you can do some moving around. So through</p> <p>5 the normal course of the year, you will --</p> <p>6 this was a way that we could get the program</p> <p>7 adopted by the industry, in other words, that</p> <p>8 would work for most people.</p> <p>9 Q. There's also a discussion, the</p> <p>10 reference here to considerable discussion</p> <p>11 about the phase-in timeline and a</p> <p>12 certification program.</p> <p>13 A. Yes.</p> <p>14 Q. Now, do you recall when the</p> <p>15 concept of having a certification program was</p> <p>16 first raised?</p> <p>17 A. I do not -- I'm trying to</p> <p>18 recall, but I think the thought of a</p> <p>19 certification first came from FMI. But I</p> <p>20 don't have records to verify that. It was --</p> <p>21 I think in a meeting that's where the idea</p> <p>22 came from.</p> <p>23 Q. But you don't have a specific</p> <p>24 recollection?</p> <p>25 A. I do not.</p>	<p style="text-align: right;">296</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 attachments if you'd like just to get a sense</p> <p>3 of what they are.</p> <p>4 A. (Reviewing document.)</p> <p>5 Okay.</p> <p>6 Q. Now, the document is titled,</p> <p>7 "UEP's Management of UEA Further Processors."</p> <p>8 Is that right?</p> <p>9 A. Yes.</p> <p>10 Q. Is this a document you</p> <p>11 prepared?</p> <p>12 A. It doesn't have my name on it,</p> <p>13 but I feel surely that I did it.</p> <p>14 Q. This document discusses some</p> <p>15 conflict that has arisen with the UEA Further</p> <p>16 Processor Division. Right?</p> <p>17 A. Yes.</p> <p>18 Q. At the -- in the second full</p> <p>19 paragraph the document says, "By providing</p> <p>20 management for UEA Further Processors and</p> <p>21 other divisions of UEA, we have been able to</p> <p>22 bring all segments of the industry together</p> <p>23 and provide unity among the industry while</p> <p>24 minimizing the costs through each division."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">295</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. So do you recall when the idea</p> <p>3 of a certification program was first</p> <p>4 discussed at the Producer Committee? In</p> <p>5 other words, was it at this meeting or some</p> <p>6 prior meeting, do you know?</p> <p>7 A. I do not know.</p> <p>8 Q. You can put that aside.</p> <p>9 - - -</p> <p>10 (Exhibit Gregory-31, UEP's</p> <p>11 Management of UEA Further Processors,</p> <p>12 Bates UE0200486 - UE0200491, was</p> <p>13 marked for identification.)</p> <p>14 - - -</p> <p>15 BY MR. OLSON:</p> <p>16 Q. Let me hand you what we've</p> <p>17 marked Gregory-31. This document is Bates</p> <p>18 stamped UE0200486 through 491. Why don't you</p> <p>19 just briefly review really the first page,</p> <p>20 and you'll see the rest of it is various</p> <p>21 attachments.</p> <p>22 A. (Reviewing document.)</p> <p>23 I've read the cover page. I</p> <p>24 assume that's what you're interested in.</p> <p>25 Q. Yeah. You can just scan the</p>	<p style="text-align: right;">297</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes, I do.</p> <p>3 Q. And those were your views at</p> <p>4 the time. Correct?</p> <p>5 A. I would like to explain what I</p> <p>6 mean by bringing all segment industries</p> <p>7 together. That is, that one of our major</p> <p>8 initiatives is that we do an awful lot of</p> <p>9 government relations work in Washington, D.C.</p> <p>10 and we work with agencies of government. And</p> <p>11 the idea of bringing all segments together is</p> <p>12 so that we are collectively working together</p> <p>13 for a common cause in government relations</p> <p>14 work.</p> <p>15 Q. And providing unity among the</p> <p>16 industry. Right?</p> <p>17 MS. LEVINE: Object to the form</p> <p>18 of the question. Asked and answered.</p> <p>19 THE WITNESS: That would</p> <p>20 hopefully be the result of it.</p> <p>21 BY MR. OLSON:</p> <p>22 Q. And also minimizing the costs?</p> <p>23 A. Yes. Yes. Otherwise, you</p> <p>24 know, here are -- otherwise they would have</p> <p>25 to hire their own staff, their own office and</p>

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<p style="text-align: right;">298</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 so forth and yet we would be doing common</p> <p>3 things we think.</p> <p>4 Q. Now, you refer to "Over the</p> <p>5 past two years...," and for purposes of</p> <p>6 dating the document, there's discussions</p> <p>7 about the budget for 2002 --</p> <p>8 A. Yes. Yes.</p> <p>9 Q. -- so we're talking about</p> <p>10 probably early 2000?</p> <p>11 A. Uh-huh.</p> <p>12 Q. "...the Further Processor</p> <p>13 Division has demanded an increasing amount of</p> <p>14 time and service from UEP's staff." Do you</p> <p>15 know what you're referring to there?</p> <p>16 A. I do not, but I think it's</p> <p>17 related to they wanted more time in</p> <p>18 Washington, D.C. calling on certain agencies.</p> <p>19 Q. It says, "The division has also</p> <p>20 challenged UEP's management of the animal</p> <p>21 welfare and Animal Care Certified programs."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know what that's</p> <p>25 referring to?</p>	<p style="text-align: right;">300</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Do you recall that happening?</p> <p>3 A. Yes. And as it turns out --</p> <p>4 Q. Or do you recall that request</p> <p>5 being made?</p> <p>6 A. Yes, I do recall.</p> <p>7 MS. LEVINE: Mr. Gregory is in</p> <p>8 the middle of answering a question.</p> <p>9 BY MR. OLSON:</p> <p>10 Q. You can continue. I just</p> <p>11 wanted to make sure it was clear.</p> <p>12 A. This is just recollection. I</p> <p>13 do recall there was an instance where</p> <p>14 information was shared with someone that they</p> <p>15 felt was inappropriate. I don't remember who</p> <p>16 that was, but I think it turned out to be an</p> <p>17 individual that they were concerned about.</p> <p>18 Q. Do you recall more about that</p> <p>19 situation?</p> <p>20 A. I do not. But that was the</p> <p>21 cause. It is some particular competitive</p> <p>22 situation possibly, I don't recall what it</p> <p>23 was.</p> <p>24 Q. Do you recall the person from</p> <p>25 the UEP Further Processor Division that</p>
<p style="text-align: right;">299</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. Well, I think I said earlier</p> <p>3 that as this program was developed, the</p> <p>4 retail side of the business was the one that</p> <p>5 was challenged first by the animal activists.</p> <p>6 The people that were servicing products</p> <p>7 customers, they were not being challenged.</p> <p>8 And so we had -- the members that were in the</p> <p>9 egg breaking side, some of which owned both</p> <p>10 shell eggs as well as just egg breaking in</p> <p>11 the industry, they said that our customers</p> <p>12 are not interested, they don't want to pay</p> <p>13 any more for these eggs, they're not</p> <p>14 interested in welfare, they don't think</p> <p>15 they'll be targeted, and that kind of thing.</p> <p>16 So they wanted as such, UEP, to get out of</p> <p>17 this animal welfare thing because they felt</p> <p>18 that it was going to cause their customers to</p> <p>19 be conscious of this and require animal eggs</p> <p>20 to be produced in this manner.</p> <p>21 Q. You say, "The Further Processor</p> <p>22 Division now has directed UEP's staff to</p> <p>23 restrict any information related to the egg</p> <p>24 products business to only those members of</p> <p>25 the UEP Further Processor Division."</p>	<p style="text-align: right;">301</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 raised this issue with you?</p> <p>3 A. No, I do not.</p> <p>4 Q. You note here that, in this</p> <p>5 context, "...that UEP does not restrict</p> <p>6 information related to shell egg industry to</p> <p>7 only UEP members." Right?</p> <p>8 A. That's true, because as you've</p> <p>9 been able to note, that our United Voices</p> <p>10 newsletter went to many people beyond our</p> <p>11 membership.</p> <p>12 Q. And including UEA members.</p> <p>13 Right?</p> <p>14 A. Yes. Yes.</p> <p>15 Q. That's the point you're making</p> <p>16 here?</p> <p>17 A. Yes.</p> <p>18 Q. Now, in the end, this request</p> <p>19 that UEP staff restrict information related</p> <p>20 to the eggs products business to only the UEA</p> <p>21 Further Processor Division, that wasn't</p> <p>22 implemented. Correct?</p> <p>23 MS. LEVINE: Objection to the</p> <p>24 form of the question.</p> <p>25 THE WITNESS: I don't recall.</p>

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<p style="text-align: right;">302</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. OLSON:</p> <p>3 Q. Do you recall any specific rule</p> <p>4 while you were president of UEP that you</p> <p>5 couldn't relate information about the egg</p> <p>6 products business to the UEP members that</p> <p>7 were shell egg producers?</p> <p>8 A. I don't recall.</p> <p>9 Q. Do you recall how this issue</p> <p>10 with the UEP Further Processor Division, the</p> <p>11 larger issue discussed in this Exhibit 31 was</p> <p>12 resolved?</p> <p>13 A. I'm sorry, maybe -- are we</p> <p>14 still talking about the restricted</p> <p>15 information? Is that what you're --</p> <p>16 Q. Just -- no. More globally. If</p> <p>17 you look at "Where Do We Go From Here?"</p> <p>18 A. Oh, okay. Yes.</p> <p>19 Q. One of the things you say is,</p> <p>20 "UEP could hereafter determine..."</p> <p>21 A. Yes. Yes.</p> <p>22 Q. That it's -- that UEA Further</p> <p>23 Processor Division should give up the name of</p> <p>24 the organization --</p> <p>25 A. Yes.</p>	<p style="text-align: right;">304</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. All right. You can put that</p> <p>3 aside.</p> <p>4 Now, do you recall a time when</p> <p>5 the Scientific Advisory Committee informed</p> <p>6 you that their names should not be used in</p> <p>7 connection with the UEP guidelines?</p> <p>8 A. Yes, I do.</p> <p>9 Q. And as a result of that, UEP</p> <p>10 took the names of the Scientific Advisory</p> <p>11 Committee members off the UEP guidelines.</p> <p>12 Correct?</p> <p>13 A. Yes.</p> <p>14 Q. So --</p> <p>15 A. Can I explain to you why I</p> <p>16 think that was the case?</p> <p>17 Q. Just let me do some</p> <p>18 preliminaries.</p> <p>19 So by the time of the 2003</p> <p>20 guidelines, the UEP guidelines no longer</p> <p>21 listed the Scientific Advisory Committee</p> <p>22 members at all. Right?</p> <p>23 A. The reason -- yes. The reason</p> <p>24 was that these people, you have to understand</p> <p>25 that the Humane Society of the United States</p>
<p style="text-align: right;">303</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. -- form their own organization,</p> <p>3 hire their own staff, pay their own office</p> <p>4 expense. That didn't happen.</p> <p>5 A. No. You have to understand,</p> <p>6 within our industry, we are independent</p> <p>7 farmers, and we have independent thoughts.</p> <p>8 The same way with the people in the further</p> <p>9 processor business. So in -- within our</p> <p>10 meetings, there is all the time great debate</p> <p>11 about all kinds of issues. So there is no</p> <p>12 doubt at that particular time there was</p> <p>13 somebody within the Further Processor</p> <p>14 Division that was irritable -- irritated I</p> <p>15 meant, irritated about what was going on and</p> <p>16 they expressed their concern. And</p> <p>17 interesting things about our meetings is that</p> <p>18 everybody has a voice. Even stupid ideas are</p> <p>19 heard. And so the end result is what is the</p> <p>20 final board decisions, and that's what I live</p> <p>21 by is what their board decision. In this</p> <p>22 case, this happened to be in 2001, I believe</p> <p>23 it is, there was never any breakup of the</p> <p>24 organization, the UEP has carried on the</p> <p>25 management of it even to today.</p>	<p style="text-align: right;">305</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 and other animal activists were targeting at</p> <p>3 everybody that was in the egg business, our</p> <p>4 office, and when we had made it known who</p> <p>5 were the Scientific Committee members of this</p> <p>6 committee, they became targets of the animal</p> <p>7 activists as well. Example, we know that</p> <p>8 University of California Davis was sued, you</p> <p>9 know. And so these people wanted to take a</p> <p>10 lower profile, hoping that that would relieve</p> <p>11 them from being such a target.</p> <p>12 Q. Well, what you were told was</p> <p>13 the reason why they wanted to take their</p> <p>14 names off the guidelines --</p> <p>15 A. Right.</p> <p>16 MS. LEVINE: Object to the form.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. -- is because having their name</p> <p>19 on the UEP guidelines implied that they</p> <p>20 endorsed those guidelines when, in fact, they</p> <p>21 didn't. Right?</p> <p>22 MS. LEVINE: Objection to the</p> <p>23 form of the question.</p> <p>24 THE WITNESS: No, no, no, that's</p> <p>25 not true. That's not true.</p>

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<p style="text-align: right;">306</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 (Exhibit Gregory-32, 1/10 Fax,</p> <p>4 Bates CM00239981 - CM00239993, was</p> <p>5 marked for identification.)</p> <p>6 - - -</p> <p>7 BY MR. OLSON:</p> <p>8 Q. Let me hand you what we've</p> <p>9 marked as Gregory Exhibit 32. And this is a</p> <p>10 packet of materials. We're just going to</p> <p>11 spend time on a couple. Bates stamped</p> <p>12 CM00239981 through 239993. Can you identify</p> <p>13 the cover of this packet?</p> <p>14 A. You're talking about the</p> <p>15 e-mails? This cover here?</p> <p>16 Q. The cover page, yeah, is a fax</p> <p>17 cover page that you sent to Ken Looper.</p> <p>18 A. I do recognize it as being sent</p> <p>19 from me.</p> <p>20 Q. And you say to Mr. Looper,</p> <p>21 "Here is correspondence we have had with Jeff</p> <p>22 Armstrong & Janice Swanson." Right?</p> <p>23 A. Janice Swanson.</p> <p>24 Q. Janice Swanson, sorry. Those</p> <p>25 are both Scientific Advisory Committee</p>	<p style="text-align: right;">308</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. Dr. Swanson?</p> <p>3 A. Uh-huh.</p> <p>4 Q. To you on December 19, 2001.</p> <p>5 Why don't you go ahead and review that</p> <p>6 e-mail. You can review the whole e-mail</p> <p>7 exchange if you'd like, the whole chain I</p> <p>8 mean, that particular one.</p> <p>9 A. (Reviewing document.)</p> <p>10 Okay.</p> <p>11 Q. We're running a little short on</p> <p>12 time, but at the beginning -- first of all,</p> <p>13 Dr. Swanson makes the point that she is no</p> <p>14 longer on the Scientific Advisory Committee?</p> <p>15 A. No, that's not true. She</p> <p>16 always was, always has been.</p> <p>17 Q. All right. So if you look at</p> <p>18 the document ending 9988.</p> <p>19 A. 88. Okay.</p> <p>20 Q. It's part of this chain.</p> <p>21 A. Oh, okay.</p> <p>22 Q. December 19th --</p> <p>23 A. I'm sorry, I didn't read that.</p> <p>24 Q. -- 2001. She's responding to</p> <p>25 you, she says, "Gene, FMI will be contacting</p>
<p style="text-align: right;">307</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 members. Right?</p> <p>3 A. Yes.</p> <p>4 Q. And Jeff Armstrong was the</p> <p>5 chairman of that committee?</p> <p>6 A. Right.</p> <p>7 Q. Right. And then you say, "We</p> <p>8 read problems in to their concerns." Is that</p> <p>9 right? Sorry, you're looking at the cover.</p> <p>10 A. Oh, yeah, yeah. I'm already</p> <p>11 reading the next page. Yeah. Okay.</p> <p>12 Q. Is that what you say in that</p> <p>13 second sentence?</p> <p>14 A. Yes.</p> <p>15 Q. And then you say, "Let's not</p> <p>16 lose their support at this important time."</p> <p>17 Right?</p> <p>18 A. Uh-huh.</p> <p>19 Q. Let's look at a couple of the</p> <p>20 e-mails. I think that we should start with</p> <p>21 the one that's on the page that ends on 9987.</p> <p>22 A. 87?</p> <p>23 Q. Yes. That's an e-mail written</p> <p>24 from, is it Ms. Swanson, Dr. Swanson?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">309</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 you and until they do so officially it is not</p> <p>3 my place to give you a reading on what</p> <p>4 happened." She's talking about a retailer</p> <p>5 document that had been provided to FMI.</p> <p>6 She says, "I can tell you that</p> <p>7 I have been appointed to be the liaison from</p> <p>8 the FMI-NCCR committee to work with UEP.</p> <p>9 They appointed me because I no longer sit on</p> <p>10 the UEP Scientific Committee and don't</p> <p>11 represent a conflict of interest..."</p> <p>12 Do you know what that refers</p> <p>13 to?</p> <p>14 A. No. You know, I honestly</p> <p>15 cannot recall her ever not being on the</p> <p>16 committee.</p> <p>17 Q. Fair enough.</p> <p>18 A. I mean, she is now, and I just</p> <p>19 thought -- I thought she always was. Okay.</p> <p>20 Q. We'll try to figure that out</p> <p>21 later. At the beginning of the chain, she</p> <p>22 says, "There is a bridge of professional</p> <p>23 ethics that is breached when names are placed</p> <p>24 on documents that have not been reviewed by</p> <p>25 all named."</p>

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<p style="text-align: right;">310</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Do you see that?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Do you recall her communicating</p> <p>5 that to you?</p> <p>6 A. I do recall -- I don't recall</p> <p>7 all the wording here, but I do kind of recall</p> <p>8 some of the circumstances and the reason for</p> <p>9 her irritation.</p> <p>10 Q. Now, if we just go a couple of</p> <p>11 pages before that, there's an e-mail from</p> <p>12 Jeff Armstrong to you and others, the other</p> <p>13 members of the committee, January 6, 2002.</p> <p>14 It's the page that ends in 985, if you could</p> <p>15 just review?</p> <p>16 A. 985?</p> <p>17 Q. Yes, if you could read Dr.</p> <p>18 Armstrong's January 6, 2002, e-mail.</p> <p>19 A. (Reviewing document.)</p> <p>20 Yes.</p> <p>21 Q. What Dr. Armstrong wrote to you</p> <p>22 is that the Scientific Committee members had</p> <p>23 asked that their names were to be used only</p> <p>24 on the scientific document. Right?</p> <p>25 A. That's what it says, yes.</p>	<p style="text-align: right;">312</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. He said, "It would, therefore,</p> <p>3 be inappropriate for our names to be</p> <p>4 associated with the time line." Right?</p> <p>5 A. Yes. Yes.</p> <p>6 Q. You understand that point.</p> <p>7 Right?</p> <p>8 A. Yes.</p> <p>9 Q. He also says, "Having the</p> <p>10 committee names mentioned on any document</p> <p>11 other than the scientific report implies that</p> <p>12 the committee supports, or endorses those</p> <p>13 guidelines, when, in fact, they don't."</p> <p>14 That's what he told you. Right?</p> <p>15 A. Yes.</p> <p>16 Q. And he says, "The committee</p> <p>17 stands firmly behind the scientific report."</p> <p>18 Right? So what you were told was the</p> <p>19 committee did not want their names on any</p> <p>20 guidelines other than the scientific report</p> <p>21 because they did not endorse any other</p> <p>22 guidelines. Right?</p> <p>23 MS. LEVINE: Objection to the</p> <p>24 form of the question.</p> <p>25 THE WITNESS: So let me explain.</p>
<p style="text-align: right;">311</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 Q. And he says, "Under no</p> <p>3 circumstances does the committee want its</p> <p>4 name used on the Producer guidelines..."</p> <p>5 Right?</p> <p>6 A. That's what it says, yes.</p> <p>7 Q. "...nor any other guidelines</p> <p>8 that the UEP comes up with,..."</p> <p>9 A. Yes.</p> <p>10 Q. "...unless permission is asked</p> <p>11 in advance by each member." Right?</p> <p>12 A. Yes. Yes. Yes.</p> <p>13 Q. He says, "I think this is only</p> <p>14 fair." And one of the points he makes is</p> <p>15 that if you look, you'll see the names are</p> <p>16 not on the 2003 guidelines, though they were</p> <p>17 on the earlier one that you looked at.</p> <p>18 A. Here's what I think the issue</p> <p>19 is.</p> <p>20 Q. Let me just finish. We only</p> <p>21 have a couple minutes.</p> <p>22 He says, "For example, the</p> <p>23 committee strictly left the issue of timing</p> <p>24 to producers." Right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">313</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. OLSON:</p> <p>3 Q. The answer is yes. Correct?</p> <p>4 MS. LEVINE: Please don't cut</p> <p>5 off Mr. Gregory. Explain your answer.</p> <p>6 BY MR. OLSON:</p> <p>7 Q. I didn't get an answer to the</p> <p>8 question.</p> <p>9 A. Yes, and I will explain.</p> <p>10 Q. And that's the reason why you</p> <p>11 took the -- why UEP took the names of the</p> <p>12 Scientific Advisory Committee off the UEP</p> <p>13 guidelines. Correct?</p> <p>14 MS. LEVINE: Mr. Olson, you're</p> <p>15 interrupting the witness. Let the</p> <p>16 witness speak so that we have a</p> <p>17 correct record of what the witness</p> <p>18 thinks.</p> <p>19 Go ahead, Mr. Gregory.</p> <p>20 THE WITNESS: FMI was extremely</p> <p>21 interested in animal welfare because</p> <p>22 their members were being targeted. So</p> <p>23 they put together a scientific</p> <p>24 committee. It just so happens it</p> <p>25 turned out to be that there's a</p>

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<p style="text-align: right;">314</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 limited number of scientists in the</p> <p>3 world that know this subject. And so</p> <p>4 they selected these three scientists</p> <p>5 to serve on FMI's committee which they</p> <p>6 were also the UEP Scientific</p> <p>7 Committee.</p> <p>8 I think, as I recall this and</p> <p>9 what happened, we go in to see FMI and</p> <p>10 have a meeting with FMI and we have</p> <p>11 taken, I think, this 2000 edition of</p> <p>12 the guidelines, see, and this is --</p> <p>13 and we have presented this to FMI to</p> <p>14 show them what we're doing and so</p> <p>15 forth. Jeff and Janice are perfectly</p> <p>16 right. I won't argue with this in the</p> <p>17 least. Without permission, we shared</p> <p>18 this with FMI including the name of</p> <p>19 their -- of our committee. We were</p> <p>20 extremely proud of that, we thought</p> <p>21 that would be a real plus. However,</p> <p>22 it was an embarrassment, I think, for</p> <p>23 Adele and for Janice, et cetera, to</p> <p>24 find themselves possibly with FMI in a</p> <p>25 conflict position, you see. And I</p>	<p style="text-align: right;">316</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 they did not endorse those guidelines.</p> <p>3 Correct?</p> <p>4 MS. LEVINE: Objection to the</p> <p>5 form of the question. This witness</p> <p>6 has just answered that question in a</p> <p>7 very lengthy response.</p> <p>8 THE WITNESS: What he is saying</p> <p>9 is that we endorse, at this point in</p> <p>10 time, you understand, we're still</p> <p>11 talking about before the UEP program</p> <p>12 is ready to be launched, what he's</p> <p>13 talking about is that we endorse the</p> <p>14 scientific recommendations that we</p> <p>15 made. We have not endorsed the</p> <p>16 producer program yet.</p> <p>17 BY MR. OLSON:</p> <p>18 Q. And that's why they didn't want</p> <p>19 their name on the guidelines?</p> <p>20 A. At a later date, they do</p> <p>21 endorse the UEP program.</p> <p>22 Q. And what was that date?</p> <p>23 A. I don't know when it was. But</p> <p>24 anyway --</p> <p>25 Q. Approximately.</p>
<p style="text-align: right;">315</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 think that is what prompted this. And</p> <p>3 so we agreed that that was an error on</p> <p>4 our part and that we agreed that they</p> <p>5 made the recommendations of guide --</p> <p>6 for guidelines, but they did not put a</p> <p>7 timeline on when or how they would be</p> <p>8 implemented. Our discussions with FMI</p> <p>9 and NCCR was trying to work with them</p> <p>10 on a phase-in period over the years so</p> <p>11 that we would not have market</p> <p>12 disruptions and spikes in prices.</p> <p>13 BY MR. OLSON:</p> <p>14 Q. And Dr. Armstrong --</p> <p>15 A. He's acknowledging that they</p> <p>16 did not -- at this point in time, they did</p> <p>17 not -- they were not endorsing a timeline, so</p> <p>18 you're -- our names should not be used on</p> <p>19 this because we didn't decide what the</p> <p>20 timeline would be.</p> <p>21 Q. They told you they didn't</p> <p>22 want -- Dr. Armstrong told you the Scientific</p> <p>23 Advisory Committee did not want their names</p> <p>24 used on the producer guidelines or any other</p> <p>25 guidelines UEP comes up with because it --</p>	<p style="text-align: right;">317</p> <p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 A. You know, I don't want to say</p> <p>3 that because I don't want to have anything on</p> <p>4 the record that's wrong.</p> <p>5 Q. Did Dr. Armstrong ever tell you</p> <p>6 that you should put the Scientific Advisory</p> <p>7 Committee names back on the UEP --</p> <p>8 A. Yes. Yes. We had -- I don't</p> <p>9 know what the year was, but we had put</p> <p>10 Scientific Committee members back on the -- I</p> <p>11 think maybe it's even on the Web site. I</p> <p>12 think it's on the actual brochure. They have</p> <p>13 actually written letters. They have their</p> <p>14 own letterhead of UEP Scientific Advisory</p> <p>15 Committee listing themselves as almost like</p> <p>16 they're officer or something. So, yes.</p> <p>17 There was a period of time that</p> <p>18 this was a created conflict, and it was my</p> <p>19 fault by the fact that I didn't seek their</p> <p>20 approval before I went in and showed them</p> <p>21 this.</p> <p>22 MR. OLSON: We have to go off</p> <p>23 the record.</p> <p>24 VIDEOGRAPHER: The time is 3:50.</p> <p>25 We're going off the video record.</p>

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318	<p>1 GENE W. GREGORY - HIGHLY CONFIDENTIAL</p> <p>2 - - -</p> <p>3 (Witness excused.)</p> <p>4 - - -</p> <p>5 (Deposition concluded at 3:50</p> <p>6 p.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	320	<p>1</p> <p>2 INSTRUCTIONS TO WITNESS</p> <p>3</p> <p>4 Please read your deposition over</p> <p>5 carefully and make any necessary corrections.</p> <p>6 You should state the reason in the</p> <p>7 appropriate space on the errata sheet for any</p> <p>8 corrections that are made.</p> <p>9 After doing so, please sign the errata</p> <p>10 sheet and date it.</p> <p>11 You are signing same subject to the</p> <p>12 changes you have noted on the errata sheet,</p> <p>13 which will be attached to your deposition.</p> <p>14 It is imperative that you return the</p> <p>15 original errata sheet to the deposing</p> <p>16 attorney within thirty (30) days of receipt</p> <p>17 of the deposition transcript by you. If you</p> <p>18 fail to do so, the deposition transcript may</p> <p>19 be deemed to be accurate and may be used in</p> <p>20 court.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
319	<p>1</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4 I do hereby certify that I am a Notary</p> <p>5 Public in good standing, that the aforesaid</p> <p>6 testimony was taken before me, pursuant to</p> <p>7 notice, at the time and place indicated; that</p> <p>8 said deponent was by me duly sworn to tell</p> <p>9 the truth, the whole truth, and nothing but</p> <p>10 the truth; that the testimony of said</p> <p>11 deponent was correctly recorded in machine</p> <p>12 shorthand by me and thereafter transcribed</p> <p>13 under my supervision with computer-aided</p> <p>14 transcription; that the deposition is a true</p> <p>15 and correct record of the testimony given by</p> <p>16 the witness; and that I am neither of counsel</p> <p>17 nor kin to any party in said action, nor</p> <p>18 interested in the outcome thereof.</p> <p>19</p> <p>20 WITNESS my hand and official seal this</p> <p>21 5th day of July, 2013.</p> <p>22</p> <p>23 _____</p> <p>24 Notary Public</p> <p>25</p>	321	<p>1</p> <p>2 ACKNOWLEDGMENT OF DEPONENT</p> <p>3 I have read the foregoing transcript of</p> <p>4 my deposition and except for any corrections or</p> <p>5 changes noted on the errata sheet, I hereby</p> <p>6 subscribe to the transcript as an accurate record</p> <p>7 of the statements made by me.</p> <p>8</p> <p>9 _____</p> <p>10 GENE W. GREGORY</p> <p>11</p> <p>12 SUBSCRIBED AND SWORN before and to me</p> <p>13 this ____ day of _____, 20____.</p> <p>14</p> <p>15 _____</p> <p>16 NOTARY PUBLIC</p> <p>17</p> <p>18</p> <p>19</p> <p>20 My Commission expires:</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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